Assessment Process and Tax Roll Corrections

A Certification Course In
THE COUNTY TRAINING PROGRAM
Oklahoma State University
Stillwater, Oklahoma
Appendix A

Board of Tax Roll Corrections

A Guidebook Published By The Oklahoma Tax Commission
THE BOARD OF
TAX ROLL CORRECTIONS

Prepared by
Oklahoma Tax Commission
Ad Valorem Division
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NOTICE

This document contains discussions which include areas of law which are unclear or in dispute. The comments on these areas of law and the interpretation of 68 O.S. 2001, Section 2871 are for reference and instructional purposes. They do not necessarily reflect the views of the Oklahoma Tax Commission or the General Counsel's Office.

Each county official should consult with the local district attorney should a dispute arise in the county as to the proper interpretation of Section 2871.
I. After delivery of the tax rolls to the county treasurer of any county, no correction or alteration as to any item contained therein as of such date of delivery shall ever be made, except by the county treasurer and on authority of a proper certificate authorized by law or pursuant to order or decree of court in determination of a tax protest or other proper case.

1. Delivery date of the tax roll to county treasurer - The county is required to complete the tax rolls and deliver the same to the county treasurer and county clerk by the first day of October of each year. 68 O.S. 2001, Section 2869.

2. Corrections by county treasurer - The county treasurer may make correction to the tax roll when:

   a. Authorized by a proper certificate from the board of tax roll corrections as authorized by the seventeen reasons enumerated in the statute; or

   b. A decree of court in determination of a tax protest which may include:

      (1) an appeal from the county board of equalization,
      (2) an appeal from the board of tax roll correction,
      (3) an appeal from the State Board of Equalization, or
      (4) a 4-R act appeal to federal district court.

   c. Other proper cases:

      (1) redetermination of tax liability by the bankruptcy court, or
      (2) federal law which pre-empts state law or state law superseding the restrictions of this statute.

A board of tax roll corrections, hereby created, consisting of the chairman of the board of county commissioners as chairman, the chairman of the county equalization board as vice-chairman, the county clerk as non-voting member and secretary, and the county assessor, a majority of whom shall constitute a quorum, is hereby authorized to hear and determine allegations of error, mistake or difference as to any item or items so contained in said tax rolls, in any instances hereinafter enumerated, on application of any person or persons whose interest may in any manner be affected thereby, or by his agent or attorney, verified by affidavit and showing that the complainant was not at fault through his own failure to fulfill any duty enjoined upon him by law, or upon discovery by the county treasurer or assessor before the tax has been
paid or attempted to be paid and disclosure by statement of fact in writing signed by said treasurer or assessor and verified by the assessor or treasurer as the case may be; but such right shall not be available to anyone desirous of acquiring, or who has acquired, the lien of the county for such tax, whether by purchase, assignment, deed or otherwise.

1. Members of the board of tax roll corrections -

(a) chairman of the board of county commissioners – chairman,
(b) chairman of the county board of equalization - vice-chairman,
(c) county clerk - secretary and non-voting member, and
(d) county assessor - voting member.

2. Duty of the board of tax roll corrections - The board of tax roll corrections "is authorized to hear and determine allegations of error, mistake or difference as to any item or items so contained in said tax roll, in any instance hereinafter enumerated." (emphasis added)

(a) Complaints of valuation - The county board is authorized to make corrections for the seventeen reasons enumerated in the statute. The board, however, does not have jurisdiction to hear a complaint which sole allegation deals with valuation. The jurisdiction to hear valuation complaints was removed from the statute in 1949.

(b) Valuation determinations made within the seventeen enumerated errors - The valuation errors found within the enumerated seventeen reasons can be divided into three groups. These are errors in calculation of valuation of property, errors in ownership of property and errors of valuation relating to due process.

### Calculation Errors

<table>
<thead>
<tr>
<th>Error No.</th>
<th>Summary</th>
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<tbody>
<tr>
<td>3</td>
<td>Exemption error</td>
</tr>
<tr>
<td>6</td>
<td>Property destroyed*</td>
</tr>
<tr>
<td>7</td>
<td>Error in legal description</td>
</tr>
<tr>
<td>8</td>
<td>Error in equalized value</td>
</tr>
<tr>
<td>12</td>
<td>Error in mill levy</td>
</tr>
<tr>
<td>14</td>
<td>Error in tax computation</td>
</tr>
</tbody>
</table>
15 Error in property card calculation
16 Error by treasurer

*This is not a true calculation error but is placed here for the purpose of grouping.

Generally, these are errors which simply require the valuation or the tax to be recalculated by substituting a missing or improper factor in the calculation. There is no question involving the valuation of the property other than correcting existing problems such as acreage, square feet, millage or other variances in the existing records.

**Ownership of Property**

<table>
<thead>
<tr>
<th>Error No.</th>
<th>Summary</th>
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<tbody>
<tr>
<td>1</td>
<td>Error in ownership</td>
</tr>
<tr>
<td>2</td>
<td>Exempt property</td>
</tr>
<tr>
<td>4</td>
<td>Double assessment</td>
</tr>
<tr>
<td>11</td>
<td>Acquired by governmental entity</td>
</tr>
<tr>
<td>13</td>
<td>Error in record ownership</td>
</tr>
</tbody>
</table>

These types of errors require a determination of proper ownership and a proportional adjustment of valuation in relation to the taxable value. This does not require a redetermination of value but places the existing valuation with the proper ownership or removes existing valuation on non-taxable property.

**DUE PROCESS**

**(A) Notice**

<table>
<thead>
<tr>
<th>Error No.</th>
<th>Summary</th>
</tr>
</thead>
<tbody>
<tr>
<td>9</td>
<td>Proper notice</td>
</tr>
<tr>
<td>17</td>
<td>Personal property notice</td>
</tr>
</tbody>
</table>
(B)
Situs

<table>
<thead>
<tr>
<th>Error No.</th>
<th>Summary</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>No taxable situs</td>
</tr>
<tr>
<td>10</td>
<td>Erroneous situs</td>
</tr>
</tbody>
</table>

Due process is separated into two sections in that two underlying issues are addressed. Procedural due process requires the taxpayer be given notice and opportunity to be heard on the increase in valuation on his property. If no notice has been sent as required by law, the taxpayer may seek relief at the board of tax roll corrections. (Ref. Attorney General Opinion 00-23)

The second issue deals with the jurisdiction of a taxing authority to levy tax on property. This comes under the issue of situs. Property is taxable only if it is within the county on certain dates as specified by statute.

3. Who may file a complaint - There are three classes of individuals who may legally file a complaint of erroneous assessment with the board of tax roll corrections:

a. Person or persons whose interest may in any manner be affected - This is interpreted to mean any person or legal entity which has an interest in the property such as follows:

(1) lessor-lessee  
(2) mortgagor - mortgagee  
(3) vendor - vendee  
(4) owner  
(5) executor of an estate  
(6) trustee of a trust  
(7) receiver  
(8) guardian  
(9) etc.

This list would include any person or legal entity who has an interest in the property and is ultimately responsible for the ad valorem taxes.

b. Agent - The class of persons generally is represented by tax agents or accountants. They represent their clients in matters of ad valorem taxation and other fields of taxation. However, this group may also include real estate brokers, abstractors or other persons aiding an individual in the investment and purchasing of property.
It is proper in this group to ask for a letter authorizing them to represent that person before the date is set for hearing on the complaint.

c. Attorney - An attorney is authorized to represent his client before the board. This generally signals the possibility of litigation. Therefore, documentation from the county assessor's office and the county treasurer's office should be checked for accuracy and introduced into evidence at the hearing.

If a question of law is involved, the county assessor or county treasurer should confer with the district attorney's office to assure the county's position is proper. Also, it is suggested if a question of law is raised at the meeting in which there is confusion among board members, it is good policy to withhold final action to the next board meeting and confer with the district attorney.

4. Complaint must be by verified affidavit - The affidavit must state that the complainant was not at fault through his own failure to fulfill the duty enjoined upon him by law. The taxpayer has the following mandatory duties:

a. properly file his personal property return,
b. properly file an appeal with the county equalization board on notice of increased valuation,
c. apply for homestead exemption between January 1st and March 15th,
d. apply for additional homestead between January 1st and March 15th or within 30 days of notice of increase in valuation,
e. apply for the five-year manufacturing exemption as required by law,
f. answer a lawful request for information from the county assessor,
g. comply with a lawful subpoena of the county board of equalization,
h. apply for a lawful exemption in a timely manner, and
i. other mandatory duties required by law.

If the taxpayer has followed all the mandatory duties and an error is committed by the county (or the State Board of Equalization regarding public service valuation) during the administrative process, the taxpayer has a right to file a complaint with the board of tax roll corrections. An example would be a timely filing of an application for homestead. In the
administrative process, the application is lost. The taxpayer may file a complaint with the county board for a correction of the tax roll to include the homestead exemption in the calculation of the net assessment and ad valorem taxes.

Should a taxpayer not carry out his mandatory duties, he is precluded from relief from the board of tax roll corrections. An example of this is a taxpayer who fails to avail himself of the right to appeal to the county equalization board after proper notice of increased valuation. The taxpayer had a duty to file a complaint with the equalization board to seek relief. Since he did not avail himself of this remedy, the county board of tax roll corrections is precluded from granting relief on the issue of valuation.

The county treasurer or county assessor may file the complaint of erroneous assessment without the signature of the taxpayer if the complaint is filed before the taxes are paid. (It is suggested that the county assessor and the county treasurer be in agreement that the error is one of the enumerated errors before filing the petition.)

5. Interested parties which the board of tax roll corrections does not have jurisdiction to provide relief - The parties acquiring tax lien certificates pursuant to 68 O.S. 2001, Section 3108 are not interested parties under this statute. This would encompass certificates purchased at the October sale or assigned to any party by the county or its successors.

II. Complaints

When a complaint is pending before the board of tax roll corrections, such taxes, as may be owed by the protesting taxpayer, shall not become due until thirty (30) days after the decision of the board of tax roll correction.

The payment of the taxes is suspended while the complaint is before the board unless taxes are delinquent.

Should the taxpayer, interested party, county assessor or county treasurer file a proper complaint of erroneous assessment, the taxes which may have come due after the complaint is filed will not become due and payable to the county treasurer until thirty days after a decision of the board. However, interest and penalties are due if the board of tax roll corrections denies relief.

Taxes must be paid by the taxpayer to perfect an appeal to district court.

When a complaint is filed on a tax account which has been delinquent for more than one (1) year, and upon showing that the tax is delinquent, the complaint shall be dismissed, with prejudice.
III. The Seventeen Reasons For A Tax Roll Correction

(1) Any personal or real property has been assessed to any person, firm, or corporation not owning or claiming to own the same; or

1. The taxpayer must offer proof that the property is not owned by him or that he is not responsible for the taxes. Generally, the complainant will know the name and address of the person or legal entity owing the taxes.

2. If the county assessor is unable to ascertain the actual owner, the tax roll should have the entry of ownership as the "unknown owner" until true ownership can be determined.

(2) Property exempt from taxation has been assessed; or

1. Article 10, Section 6 and 8 exempts the following property from ad valorem taxation:

   a. Use of property:
      (1) free public libraries
      (2) free museums
      (3) public cemeteries
      (4) non-profit schools
      (5) non-profit colleges
      (6) religious organizations
      (7) charitable organizations
      (8) certain household personal property (county option)

   b. Ownership:
      (1) United States government except where exemption is waived:
          (a) F.D.I.C.
          (b) F.S.I.C.
          (c) federal housing
          (d) FmHA
      (2) State of Oklahoma and subdivisions of the state
      (3) Counties
      (4) Municipalities

   c. Household personal - $100 assessed valuation (see: enumeration number three).
d. All growing crops.

e. Property held in trust by the United States government for the Indian tribes.

f. Exemptions existing in 1907, at statehood, which are still presently authorized by statute.

2. Statutory exemptions not enumerated in Article 10, Section 6 are detailed (68 O.S. Supp. 2001, in Section 2887):

a. Fraternal orphan homes.

b. Orphan homes.

c. Non-profit and charitable hospitals.

d. Personal property used by a minister for religious purposes such as office equipment and libraries.

e. Veteran’s personal property exemption - $200 assessed (see: enumeration number three).

f. One-year’s provision of food and fuel per household.

g. Family portraits.

h. All game animals with certain exceptions.

3. In-lieu taxes - an excise tax which is paid in the place of an ad valorem tax.

4. Freeport exemption - Article 10, Section 6B of the Oklahoma Constitution.

(3) Exemption deductions allowed by law have not been taken into account; or

1. Homestead exemption - $1,000 assessed valuation.

2. Additional homestead exemption $1,000 assessed valuation.

3. Household personal property exemption - $100 assessed valuation.

4. Veteran’s household personal exemption - $200 assessed valuation.
(4) The same property, whether real or personal, has been assessed more than once for the taxes of the same year.

This generally is the result of property being listed and assessed in two different counties.

(5) Property, whether real or personal, has been assessed in the county for the taxes of a year to which the same was not subject.

Residential structure is completed and sold after January 1st is placed on the assessment and tax roll for that assessment year.

(6) The county board of equalization has, after delivery of the tax rolls, made a finding of fact under authority of law that, after January 1 of any year and before May 1, of the same year, improvements to real estate or other property assessed have been destroyed by fire, or that the value of land has been impaired, damaged or destroyed by floods or overflow of streams, and has made and entered an adjustment to assessments previously made and entered; or

1. The taxpayer files for a correction on damages before payment of taxes.

2. The board of tax roll corrections has a finding of fact that real property was damaged or destroyed between January 1st and the adjournment of the county board of equalization.

3. The board of tax roll corrections holds the complaint pending the statutory meeting date of the county board of equalization.

4. The county board of equalization, while in session the next assessment period, determines the amount of relief which is to be granted by the board of tax roll corrections.

(7) Land or lots have in any manner been erroneously described; or

1. Erroneous acreage.

2. Erroneous square footage.

3. Erroneous legal description.

(8) Any valuation or valuations assessed and entered are at variance with the valuation finally equalized; or
1. The county assessor or his/her staff fails to enter a county board of equalization order on the assessment roll.

2. The county assessor or his/her staff erroneously enters a county board of equalization order on the assessment roll.

3. The county assessor or his/her staff enters a public service valuation on the assessment rolls which is different from the valuation set by the State Board of Equalization.

Any valuation or valuations returned for assessment and not increased by the county assessor have been entered on the assessment rolls for equalization at variance with the value returned, or in the event of increase by either the county assessor or the county board of equalization and no notice thereof was sent (offer of proof of failure to receive notice may not be heard); or

1. Personal property - The valuation on personal property rendered by the taxpayer is accepted by the county assessor. However, the assessor or his/her staff places a valuation on the assessment rolls differently from that value rendered and accepted. (The assessor is required to send a change in valuation notice if the valuation is increased. However, no notice is required when the valuation of the taxpayer is accepted by the assessor and the applied fractional assessment percentage is changed.)

2. Personal and real property valuation increases - The county assessor or the county board of equalization is required to send notice of any increase in valuation on real and personal property. Failure to send notice is a violation of procedural due process (notice and opportunity to be heard). Therefore, the taxpayer is entitled to a hearing as to the increase in valuation.

An earlier attorney general's opinion states that the board of tax roll correction does not have the authority to hear valuation complaints. Therefore, the board's only function is to place the valuation back to its original valuation.

a. Taxpayer files complaint.

b. Tax roll correction board has a finding of fact that notice was not properly sent to taxpayer.

c. Tax roll correction board holds the complaint pending the statutory meeting date of the county board of equalization.
d. The question of valuation is referred to the equalization board for determination.

e. The equalization board determines valuation and sends its findings to the tax roll correction board which enters the board's findings as a correction.

However, a county using this procedure should consult its district attorney for his/her advice since this procedure is not common practice and has not been tested by case law. This appears to be the fair procedure since routinely placing the valuation back to its previous year's value may result in a value still exceeding fair cash value.

(10) Any valuation assessed and entered included, in whole or in part, as of the date of assessment under the law relating thereto, any property that had no taxable situs in the county, did not exist or had been erroneously placed; or

1. No taxable situs:

   a. Property which is in interstate commerce.

   b. Personal property after September 1st entering the state or another county (personal property entering the state after January 1st but before September 1st may be placed on the assessment rolls).

   c. Manufactured homes which are in the state less than sixty days.

   d. Manufactured homes owned by certain college students.

   e. Personal property which is owned by military personnel on active duty. (It should be noted that military personnel filing for homestead exemption become residents of Oklahoma and are subject to ad valorem taxes and income taxes.)

2. Property that did not exist:

   a. Improvements on real estate which were never in existence.

   b. Business personal property which was valued and assessed when business and assets dissolved before January 1st.

   c. Error which produced a legal description which does not
exist.

3. Property erroneously placed:
   a. Property is erroneously listed in the wrong school district, municipality or county.
   b. Property is erroneously listed in the wrong state.

This is generally related back to a problem with taxable situs.

(11) Any property subject to taxation as of January 1 of any year, was thereafter acquired by conveyance of title (including tax title), by the county, or any city, town or school district therein; or

1. County which obtains title to the property by resale deed.

2. Property acquired for governmental purposes by the United States, the state, or a city, town, county, school district or other political subdivision.

The taxes are prorated based upon the acquisition date pursuant to 68 O.S. 2001, Section 2940. The governmental entity is to deduct the prorated ad valorem taxes from the purchase price and remit to the county. However, the full amount is due after October 1st.

(12) An error resulted from inclusion in the total of levies computed against the valuation entered, a tax levy or levies certified and final for none or part of which such property was liable in fact and the same be self-evident on recomputation, and involve no question of law; or

This simply involves the use of an improper levy or levies in the calculation. This involves a recalculation of the taxes.

EXAMPLE

<table>
<thead>
<tr>
<th>Levy</th>
</tr>
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<tbody>
<tr>
<td>County</td>
</tr>
<tr>
<td>School</td>
</tr>
<tr>
<td>Town</td>
</tr>
<tr>
<td>Sinking Funds</td>
</tr>
</tbody>
</table>
Taxpayer assessment $1,000.00
Mill rate X 62 Mills/thousand assessed
Taxes $ 62.00

If it is discovered that the taxpayer does not live in the town and is not subject to the 3 mills, then a simple recalculation is all that is needed.

$1,000 assessed X 59 Mills/thousand = $59.00

The board of tax roll corrections does not have jurisdiction on question of law. The Court of Tax Review has jurisdiction as to alleged illegal levies pursuant to 68 O.S. 2001, Section 3024.

It should be noted that the county is required to extend the levies against the assessment in calculating the tax roll even if an action is pending in the tax court or district court on a particular mill levy. 68 O.S. 2001, Section 2869(a). Should the mill levy be changed by competent authority after the levies are certified and the taxes calculated on the tax roll, the county treasurer is authorized to recalculate the taxes and correct the tax roll. 68 O.S. 2001, Section 2869(c).

As to personal tax, there be an error in the name of the person assessed, or, as to real property, the record owner at the time of assessment desires that his name be entered in lieu of whatever other name may have been entered as "owner" upon the roll; or

1. Personal tax - error in name of person assessed:
   a. The taxpayer's name is misspelled.
   b. The tax roll reflects the taxpayer's maiden name instead of her married name.
   c. The parent company's name is on the tax roll when the name of the subsidiary should have been used.

These types of errors are inter-related to enumeration number 1 which deals with ownership of property or can be corrected by implementing the clerical error procedure if the tax liability is unchanged.

2. Change in record owner of real property:
   a. A deed is missed and the new owner requests his name be substituted on the tax roll for the original owner.
b. A deed is filed before the 1st day of October and the grantee wishes to substitute his name on the tax roll for the grantor. (see: 68 O.S. 2001, Section 2912)

(14) There be any error in the tax extended against the valuation entered, whether by erroneous computation or otherwise; or

This enumeration would be used in instances which mathematical errors are made in the calculation of taxes and is related to enumeration number twelve related to mill levies.

(15) There be any error in transcribing from the county assessor's permanent survey record to the assessment rolls either as to area or value of lands or lots or as to improvements thereon; or

1. The valuation of the land on the property record cards differ from the valuation on the assessment roll.

2. The valuation of the improvement on the property record cards differ from the valuation on the assessment roll.

This could be read to allow for errors in land and improvement square footages to be corrected. This would be a simple recalculation based on a new square footage and the original unit of value.

**EXAMPLE**

<table>
<thead>
<tr>
<th>Improvement square footage</th>
<th></th>
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</thead>
<tbody>
<tr>
<td></td>
<td>5,000 s.f.</td>
</tr>
</tbody>
</table>

Cost per square foot $20.00/s.f. $100,000

Correction

3,500 s.f. X $20.00/s.f. = $70,000

There is no provision for the adjustment of depreciation, property classification or other property characteristics since they are issues which involve valuation.

(16) The county treasurer has, of his/her own volition, restored to the tax rolls any tax or assessment where the entry upon the tax rolls shows the same theretofore to have been stricken or reduced by certificate issued by constituted authority, except where restored by specific court order or in conformity to general decree of the Supreme Court of Oklahoma invalidating in mass all such certificates of a class certain, and except if
the owner of such property demand its restoration and make payment, in which instance the county treasurer shall require that he sign on the face of the receipt a statement that he "paid voluntarily without demand, request or duress"; or

1. The county treasurer refuses to honor a lawful correction certificate issued by the board of tax roll correction.

2. This also allows the treasurer to make corrections should certificates be invalidated in large numbers by the Supreme Court. (This happened when a 1937 statute allowed a valuation correction for prior years was subsequently found unconstitutional.)

3. The taxpayer may demand his original tax liability be restored on a certificate reducing his taxes. (see also: 68 O.S. 2001, Section 2934)

CORRECTION BY CERTIFICATE

(17) Any personal property assessment and personal tax charge shall have been entered upon the assessment and tax rolls except upon proper return of assessment by the taxpayer or increase thereof with due notice, or as a delinquent assessment made by the county assessor or his/her deputies in detail either on view or reliable information;

This is related to enumeration number nine in that correction can be used to correct personal property which has been entered on the assessment and tax rolls without following proper notice requirements, statutory procedures for omitted property or other due process defects.

Then, in either or any such event, it shall be the duty of the board of tax roll corrections to make and the secretary to enter its findings of fact and to correct such error, if such exists, by issuing its order, in words and figures, to accomplish such:

(1) If such error increased the amount of tax charged, the county clerk shall issue a certificate of error to the county assessor ordering him/her to certify such correction and/or increase to the county treasurer for entry on the tax rolls.

(2) If such error does not increase the amount of tax charged, the county clerk shall issue a certificate of error to the county treasurer if the tax be not paid, stating the amount or other effect of such order, and it shall be the duty of such county treasurer to make and enter such correction upon his/her tax rolls and, if there be a decrease to the amount of tax charged, to
enter a credit, in-lieu of cash, for the amount of decrease of tax shown in such certificate.

This section is to correct the current tax roll. When taxes are paid and a refund is due, a separate procedure must be followed.

1. An increase in the valuation requires a certificate of error be issued causing him/her to increase assessment certified to the county treasurer.

2. A decrease in the valuation requires a certificate of error be issued to the county treasurer decreasing the amount of taxes on the tax roll.

IV. Correction Refund

If, prior to such hearing by the board, as aforesaid, the tax had been paid, no certificate shall issue; but if less than one year shall have elapsed after the payment of the tax and before the filing of such application for correction of error, and after such hearing the findings of fact disclose that less tax was due to have been paid than was paid, then the person who paid the tax, or his heirs, successors, or assigns, may execute a cash voucher claim setting forth facts and findings, verify it, and file it with the county clerk, who shall thereupon deliver such claim to the county treasurer for designation of the fund from which the claim must be paid and approval of the claim as to availability of funds by the county treasurer. If taxes have been paid under protest, the county treasurer must designate the refund to be paid from such protest fund. If taxes have been paid but not paid under protest and if there are funds available in current collections of the taxing unit which received the taxes paid, then the county treasurer must designate the refund to be paid from such current collections of such taxing unit. The county clerk shall thereupon issue a cash voucher against the appropriate fund of the county, directing the county treasurer to pay to such person the amount so found to be erroneous. The word "person" as last hereinbefore applied shall comprehend the person, firm, or corporation who paid such tax and the heirs, assigns or successors, as the case may be. No such claim for refund shall be allowed and paid unless the same be filed within six months after the effective date of the order of correction.

If there be any error in the taxes collected from any person, the overpayment or duplicate payment of such taxes collected in error may be recovered by the taxpayer, and the county treasurer may make such payment from the resale property fund of the county if funds are not available as stated in the preceding paragraph of this section.

Statute as interpreted by the court in Board of Tax Roll Corrections of Tulsa County vs. Mack Truck Sales of Tulsa Inc., Okl., 620 P.2d 388 (1980):
1. The two-year statute of limitations was applicable with the taxpayer's claim for refund.

2. If the claim is filed within one year of payment of the taxes, then the refund is to be paid out of current collection funds.

3. If the claim was not filed within one year or if current funds or protest funds are not available, then the refund is to be paid from the property resale fund.

However, the court in Independent School District No. 9 v. Glass, Okl., 639 P.2d 1233 (1982), at page 1239, states as follows:

The Board is incorrect in asserting that the time of filing of the rendition is determinative of the issue. The statute, Section 2871, clearly provides that the critical time period is less than one year after the payment of the tax. Ford claimed reimbursement within one year of payment. The taxes were paid in January and April of 1978 and reimbursement was timely sought in September 1978.

The statute of limitations begins running on the date of payment of the taxes. However, this case appears to contradict Mack Truck Sales as to the statute of limitation. Since Mack Truck Sales is a pure statute of limitation case, it will be viewed as controlling law for the purpose of this discussion.

DOCTRINE OF LACHES

The "Doctrine of Laches" is based on the theory that equity aids the vigilant and not those who slumber on their rights. It is defined as neglect to assert right or claim which, taken together with a lapse of time and other circumstances causing prejudice to adverse party, operates as a bar in a court of equity. Black's Law Dictionary, 5th ed. (St. Paul, Minn.: West Publishing Co. 1979) at. P.787

The Oklahoma Supreme Court in Deep Fork Construction Company v. Board of Tax Roll Corrections, Okl., 391 P.2d 810 (1964) barred an action in district court for a refund in district court because the plaintiff had paid the taxes without protest and filed for a refund after the disbursement of the taxes.

The court inferred in Independent School District No. 9 of Tulsa Co. vs. Glass et al., Okl., 639 P.2d 1233 (1982) that a party waiting greater than a year to assert its right to a freeport exemption may be barred from maintaining an action in district court for a refund on taxes paid.
V. Appeals

Both the taxpayer and the county assessor shall have the right of appeal from any order of the board of tax roll corrections to the district court of the same county. In case of appeal the trial in the district court shall be de novo.

While this section states who may file an appeal, there is no statutory procedure which sets out the appeal procedure. There is no statutory time for perfecting the appeal. Whereas, an appeal from the county equalization board requires notice to the county clerk and a petition filed within ten days of the adjournment of the board, no such statutory requirements are set out for the board of tax roll correction.

However, under the general rules of civil procedure, an appellant must file a petition within thirty days. A longer period might not be favored by the court which could lead to the application of the Doctrine of Laches.

FACTS

The taxpayer received a change notice or fails to file a complaint with the county board of equalization on the valuation of his property within the statutory period. After the abstract is certified to the State Board of Equalization, the taxpayer files a complaint with the board of tax roll corrections requesting a review of the valuation placed on his property. Does the board of tax roll corrections have jurisdiction to order relief?

VI Valuation - Board of Tax Roll Correction

The county board of equalization has exclusive jurisdiction to hear valuation complaints. The remedy for an adverse order of the county board of equalization is an appeal to district court. Jurisdiction of the board of tax roll corrections to hear valuation complaints and order relief was removed by the legislature in 1949.

The county board of equalization, pursuant to 68 O.S. 2001, Section 2863, is required to perform the following duties:

"It shall be the duty of said boards and they shall have the authority to:

(a) equalize, correct, and adjust the assessed valuation of real and personal property by raising or lowering the valuation of the property, real or personal, of any taxpayer to conform to the fair cash value of said property, as defined by law; and..."

(emphasis added)

The taxpayer has a statutory right to appeal the valuation (fair cash value) placed on his property pursuant to 68 O.S. 2001, Section 2880.1(a) which states:
"(a) Both the taxpayer and the County Assessor shall have the right to appeal from any order of the County Board of Equalization to the District Court of the same County, and right of appeal of either may be either upon questions of law or fact including value, or upon both questions of law and fact. In case of appeal the trial in the District Court shall be de novo, but no matter shall be reviewed by the District Court which was not presented to the Board in the complaint filed with it." (emphasis added)

The exclusive remedy for valuation complaints is a hearing before the county board of equalization and the right of appeal to district court pursuant to 68 O.S. 2001, Section 2885 which states:

"(a) The proceedings before the Boards of Equalization and appeals therefrom shall be the sole method by which assessments or equalizations shall be corrected or taxes abated. Equitable remedies shall be resorted to only where the aggrieved party has no taxable property within the tax district of which complaint is made." (emphasis added)

The exclusive remedy was upheld by the Oklahoma Supreme Court in Chapman v. Draughtons School of Business, 287 P.2d 903 (1955). In the Chapman decision, the taxpayer filed an injunction against the collection of taxes on the taxable portion of a partially exempt property without appearing before the county equalization board to challenge the valuation on the property. The court applied 68 O.S. 1951, Section 15.42 (68 O.S. 1981, Section 2461) and 68 O.S. 1951, Section 15.49 (68 O.S. 1981, Section 2468) to these facts and stated:

"The plaintiff had a remedy provided by statute, 68 O.S. 1951, Section 15.42 [68 O.S. 1981, Section 2461], whereby he could attack the alleged error in assessment. That remedy also carried with it the right of appeal, giving the plaintiff a full and adequate legal procedure for the protection of its rights. Such procedure was, by the provisions of 68 O.S. 1951, Section 15.49 [68 O.S. 1981, Section 2468], exclusive and plaintiff had no other avenue open to it to attack the alleged error in assessment." Id. at 906

The rule of law applied in the Chapman decision had been applied in a number of cases preceding this decision with the statutory remedy under each set of facts being the exclusive remedy. See e.g.: Lairmore v. Board of Com'r's Okmulgee County, 200 Okl. 436, 195 P2d 762 (1948); Flower Hospital v. Board of Equalization of Tulsa Co., 191 Okl. 218, 127 P2d 177 (1942); Keaton v. Bonaparte, 174 Okl. 316, 50 P.2d 404 (1935); Huston v. Curtis, 160 Okl. 216, 16 P2d 874 (1933)

The board of tax roll corrections had limited jurisdiction for valuation hearings before 1949. The statutory language allowing these hearings stated:
"..., on application of any person or persons whose interest may in any manner be affected thereby, or by his agent or attorney, verified by affidavit and SHOWING GOOD CAUSE FOR NOT HAVING ATTENDED THE MEETING OF THE COUNTY BOARD OF EQUALIZATION..." 68 O.S. Supp. 1945, Section 184(d) (emphasis added)

Section 184(d) is the equivalent of 68 O.S. 2001, Section 2871 which creates the board of tax roll corrections under present statutory law.

This language was removed from the statute by Senate Bill No. 183, Section 1 approved April 18, 1949. Thereafter, the board of tax roll corrections was only authorized to hear and determine allegations of error or mistake in the tax roll as enumerated in the statute. Section 184(d), as amended, is substantially the same as the present Section 2871. There is no longer any provision enumerated for the board of tax roll corrections to hear issues which are concerned with only the valuation placed on property by the county assessor or county board of equalization.

CASE LAW AND AUTHORITIES

Statutory

68 O.S. 2001, Section 2863
68 O.S. 2001, Section 2879
68 O.S. 2001, Section 2885
68 O.S. 2001, Section 2871
68 O.S. 1951, Section 15.42
68 O.S. 1951, Section 15.49
68 O.S. Supp. 1945, Section 184(d)
68 O.S. Supp. 1949, Section 184(d)

Other Related Statutes

68 O.S. 2001, Section 2869
68 O.S. 2001, Section 2880.1
68 O.S. 2001, Section 2887
68 O.S. 2001, Section 2912
68 O.S. 2001, Section 2934
68 O.S. 2001, Section 2940
68 O.S. 2001, Section 3024
68 O.S. 2001, Section 3108

Case Law

Chapman v. Draughons School of Business,
287 P.2d 903 (1955)
Lairmore v. Board of Com'rs Okmulgee County,
200 Okl. 436, 195 P.2d 762 (1948)

Flower Hospital v. Board of Equalization of Tulsa Co.,
191 Okl. 218, 127, P.2d 177 (1942)

Keaton v. Bonaparte,
174 Okl. 316, 50 P.2d 404 (1935)

Huston v. Curtis,
160 Okl. 216, 16 P.2d 874 (1933)

Independent School District No. 9 of Tulsa Co. v. Glass et. al.,

Deep Fork Construction Company v. Board of Tax Roll Corrections
Okl. 391, P.2d 810 (1964)
Board of Tax Roll Corrections of Tulsa County v. Mack Truck Sales of Tulsa

Other

Senate Bill No. 183, Section 1 (Approved April 19, 1949)
Oklahoma Constitution Article 10, Section 6
Oklahoma Constitution Article 10, Section 6A
Oklahoma Constitution Article 10, Section 6B
Appendix B

Omitted and Underassessed Property

A Guidebook Published By The Oklahoma Tax Commission
OMITTED AND UNDERASSESSED PROPERTY

Prepared by
Oklahoma Tax Commission
Ad Valorem Division
Jeff Spelman, CAE, Director

August 2000
Revised August 2002
NOTICE

This document contains information which include areas of law which may be unclear or in dispute. The comments on these areas of law and the interpretation are for instructional and reference purposes. They do not necessarily reflect the views of the Oklahoma Tax Commission General Counsel’s Office or the Office of the Attorney General.

Each county official should consult with his/her local district attorney should a dispute arise in his/her county as to the proper interpretations.
ACKNOWLEDGEMENT

The goal of this publication is to provide the county assessors of Oklahoma with a reference tool that is unique to the state. Several representatives of state government are noted for their contributions.

Oklahoma Attorney General’s Office
Oklahoma Tax Commission, Legal Division
Oklahoma Tax Commission, Ad Valorem Tax Division
State Auditor and Inspector
OSU, Center for Local Government Technology
OMITTED PROPERTY AND UNDERASSESSED PROPERTY

1. OMITTED PROPERTY - 68 O.S. §§ 2819; 2844 A

Taxable real, personal or public service property that was omitted from the assessment roll and tax roll in prior years is taxed when discovered.

Definition: Omitted Property

Property that was not discovered or was omitted from the assessment roll and tax roll for an invalid reason or an erroneous proceeding, and thereby was not taxed in one or more prior years.

The county assessor, or county board of equalization, or State Board of Equalization in terms of public service property shall require the property be taxed for the years omitted.

Once discovered, the county assessor shall appraise, assess and tax the property for the year(s) in which it was omitted. Omitted public service property shall be appraised and assessed by the State Board of Equalization. The number of years the prior assessment rolls and tax rolls can be corrected is as follows:

1. Real property omitted up to 15 years.
2. Personal property omitted up to 3 years.

68 O.S. §§ 2819 & 2844 A

1.1 Appraising, Assessing and Taxing Omitted Property – 68 O.S. §§ 2844 A, B; 2876

The property is appraised, assessed and taxed for the year(s) it was omitted. The appropriate prior year(s) pricing schedule, assessment rate(s) and tax rate(s) are used. For example, if the property was omitted from the 2002 tax roll then the 2002 pricing schedule, assessment rate and tax rates would be used. The steps are outlined as follows:

1. Determine the fair cash value in each year the property was omitted.
2. Determine the gross assessed value using the assessment percentage in each year the property was omitted.
3. Determine the net assessed value.
4. Determine the taxes due using the tax rate(s) in each year the property was omitted.
5. Compute a 12 percent penalty for each year the tax is delinquent.

7. Keep a record of the notice and the date it was mailed.

8. Meet with the taxpayer as required in 68 O.S. 2001, § 2876.

9. Prepare a certificate of omitted property for the county treasurer and a copy for the county clerk.

1.2 Notice of Omitted Property – 68 O.S. §§ 2844 A; 2876

The county assessor shall send a written notice to the taxpayer in the same manner as other notices of change in valuation. An informal hearing is held if requested by the taxpayer.

The taxpayer takes the following steps when appealing an omitted property assessment:

1. Request an informal hearing with the assessor.

2. May appeal to the county board of equalization.

3. May file an appeal in district court.

The final outcome is determined by the court.
Example: Omission from the 1996 to 2001 tax rolls was discovered in February 2002. Current tax roll is the 2001 tax roll which was certified in October 2001.

<table>
<thead>
<tr>
<th>First Year Omitted: 1997</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Fair cash value in year 1997</td>
<td>$ 57,056</td>
</tr>
<tr>
<td>Assessment rate in year 1997</td>
<td>x .10</td>
</tr>
<tr>
<td>Gross assessed value in year 1997</td>
<td>$ 5,705</td>
</tr>
<tr>
<td>Homestead exemption (deduct exemption if applicable)</td>
<td>- 1,000</td>
</tr>
<tr>
<td>Millage in year 1997</td>
<td>x .060</td>
</tr>
<tr>
<td>Tax bill in 1997</td>
<td>$ 282</td>
</tr>
<tr>
<td>Penalty factor</td>
<td>x .12</td>
</tr>
<tr>
<td>Penalty</td>
<td>$ 34</td>
</tr>
</tbody>
</table>

Enter on 1997 assessment roll and omitted property certificate

<table>
<thead>
<tr>
<th>Second Year Omitted: 1998</th>
<th></th>
</tr>
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<tbody>
<tr>
<td>Fair cash value in year 1998</td>
<td>$ 57,343</td>
</tr>
<tr>
<td>Assessment rate in year 1998</td>
<td>x .11</td>
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<tr>
<td>Gross assessed value in year 1998</td>
<td>$ 6,308</td>
</tr>
<tr>
<td>Homestead exemption (deduct exemption if applicable)</td>
<td>- 1,000</td>
</tr>
<tr>
<td>Millage in year 1998</td>
<td>x .058</td>
</tr>
<tr>
<td>Tax bill in 1998</td>
<td>$ 270</td>
</tr>
<tr>
<td>Penalty factor</td>
<td>x .12</td>
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<tr>
<td>Penalty</td>
<td>$ 32</td>
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Enter on 1998 assessment roll and omitted property certificate

<table>
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<tr>
<th>Third Year Omitted: 1999</th>
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<tbody>
<tr>
<td>Fair cash value in year 1999</td>
<td>$ 57,631</td>
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<tr>
<td>Assessment rate in year 1999</td>
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<tr>
<td>Gross assessed value in year 1999</td>
<td>$ 6,339</td>
</tr>
<tr>
<td>Homestead exemption (deduct exemption if applicable)</td>
<td>- 1,000</td>
</tr>
<tr>
<td>Millage in year 1999</td>
<td>x .065</td>
</tr>
<tr>
<td>Tax bill in 1999</td>
<td>$ 347</td>
</tr>
<tr>
<td>Penalty factor</td>
<td>x .12</td>
</tr>
<tr>
<td>Penalty</td>
<td>$ 42</td>
</tr>
</tbody>
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Enter on 1999 assessment roll and omitted property certificate

Computed by county treasurer
<table>
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<tr>
<th>Fourth Year Omitted: 2000</th>
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<th></th>
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</thead>
<tbody>
<tr>
<td>Fair cash value in year 2000</td>
<td>$ 58,124</td>
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</tr>
<tr>
<td>Assessment rate in year 2000</td>
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</tr>
<tr>
<td>Gross assessed value in year 2000</td>
<td>$ 6,394</td>
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</tr>
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<td>Homestead exemption (deduct exemption if applicable)</td>
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<td>Millage in year 2000</td>
<td>x .065</td>
<td></td>
</tr>
<tr>
<td>Tax bill in 2000</td>
<td>$ 351</td>
<td></td>
</tr>
<tr>
<td>Penalty factor</td>
<td>x .12</td>
<td></td>
</tr>
<tr>
<td>Penalty</td>
<td>$ 42</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Enter on 2000 assessment roll and omitted property certificate</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Enter on 2000 assessment roll and omitted property certificate</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Enter on omitted property certificate</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Fifth Year Omitted: 2001</th>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Fair cash value in year 2001</td>
<td>$ 59,100</td>
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</tr>
<tr>
<td>Assessment rate in year 2001</td>
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<tr>
<td>Gross assessed value in year 2001</td>
<td>$ 7,902</td>
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<tr>
<td>Homestead exemption (deduct exemption if applicable)</td>
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<td></td>
</tr>
<tr>
<td>Millage in year 2001</td>
<td>x .065</td>
<td></td>
</tr>
<tr>
<td>Tax bill in 2001</td>
<td>$ 396</td>
<td></td>
</tr>
<tr>
<td>Penalty factor</td>
<td>x .12</td>
<td></td>
</tr>
<tr>
<td>Penalty</td>
<td>$ 48</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>Computed by county treasurer</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Back taxes and Penalty added to Current Tax Roll (Certified 2001 Tax Roll)</th>
<th>Tax Owed</th>
<th>Penalty</th>
</tr>
</thead>
<tbody>
<tr>
<td>Year omitted</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1997</td>
<td>$ 282</td>
<td>$ 34</td>
</tr>
<tr>
<td>1998</td>
<td>270</td>
<td>32</td>
</tr>
<tr>
<td>1999</td>
<td>347</td>
<td>42</td>
</tr>
<tr>
<td>2000</td>
<td>351</td>
<td>42</td>
</tr>
<tr>
<td>2001</td>
<td>$ 396</td>
<td>48</td>
</tr>
<tr>
<td>Total entered on current tax roll</td>
<td>$1,646</td>
<td>$198</td>
</tr>
</tbody>
</table>
1.3 Certificate of Omitted Property – 68 O.S. § 2845

A certificate of omitted property is prepared by the county assessor before the property can be added to the prior year(s) tax roll(s) and the certified tax roll for the current year. The certificate is entitled Certificate of Assessment of Omitted Real and/or Personal Property, S.A.&I. Form 1231. Triplicate copies are prepared and distributed as follows:

1. Original copy goes to the county treasurer.
   Authorizes the county treasurer to:
   a. Enter on the current tax roll the total back taxes due.
   b. Enter on the prior year(s) tax roll(s) the tax in a prior year.
   c. Collect the total taxes due.

2. Duplicate copy goes to the county clerk.
   Authorizes the county clerk to add the back taxes to the prior tax account(s) of the county treasurer.

3. Duplicate copy is kept by the county assessor.
   Verifies the certificate was prepared and distributed.

Information entered on the certificate by the county assessor includes the following:

1. Taxable year(s) the property is omitted.
2. Description of the property.
3. Legal description of the property.
4. City or town and school district where the property is located.
5. Gross assessed value and net assessed value of the property in each year it was omitted.
6. Back taxes due in each year the property was omitted.

The county treasurer sends the tax bill to the taxpayer. The amount of back taxes owed and the penalty are shown separately. A statement is included that no penalty is charged if the taxes are paid within 30 days from the date the tax bill is mailed. 68 O.S. § 2845

Once the certificate is received, the county treasurer updates the prior year(s) tax rolls(s), sends out the tax bill, and collects the back taxes owed.
2. **UNDERVALUED PROPERTY – 68 O.S. §§ 2846 A, B; 2876**

Undervalued property refers to real, personal, or public service property that through willful and fraudulent misrepresentation of the owner was grossly undervalued and improperly taxed.

**Definition: Undervalued Property**

Property grossly underassessed and under taxed due to false representation by the owner or agent of owner.

The county assessor has two (2) years from the date the property was originally undervalued to reassess it as follows:

1. Determine the correct fair cash value of the property in each year it was undervalued.
2. Determine the correct gross assessed value and net assessed value in each year it was undervalued.
3. Compute the additional tax dollars due over the amount paid each year it was undervalued.
4. Notify the taxpayer as required in 68 O.S. § 2876.
5. Keep a record of the notice and the date it was mailed.
6. Meet with the taxpayer as required in 68 O.S. § 2876.
7. Compute a six (6) percent penalty per year on the additional tax dollars due.
8. Notify the county treasurer of the change and the corrections to be made to the tax rolls(s).

The county treasurer sends out the tax bill for the additional taxes owed on the undervalued property.

3. **OKLAHOMA SUPREME COURT DECISIONS ON OMITTED AND UNDERVALUED PROPERTY**

The county assessor, at times, has to rely on precedence established by the court. Several Oklahoma Supreme Court cases are reviewed below that addressed omitted property and undervalued property.
3.1 Burden of Proof

The burden of proof is assigned to the county assessor, or State Board of Equalization in the case of public service property, to show the property was omitted.


When establishing the ownership, situs and value of omitted property as of an assessment date the burden of proof is assigned to the county assessor or State Board of Equalization in case of public service property. On the other hand, the taxpayer is responsible for proving personal property is in interstate transit and thereby should not be taxed as omitted.

Chickasha Cotton Oil Co. v. Grady County et. al. No. 24538, April 7, 1936. [Oklahoma Decisions, 58 Pacific Reporter 2d Series, page 590]

3.2 Omitted Personal Property of a Deceased Taxpayer

Personal property taxes are assessed in the name of the owner thereof as of January 1 next preceding the tax year for which it is assessed. From here the court concluded omitted personal property of a deceased taxpayer may not be assessed in the name of the heirs. Taxes are assessed to the estate.


Current law states the persons required to list personal property. For an estate of a deceased person it shall be listed by the executor or administrator. 68 O.S. § 2832 B

3.3 Notice to Property Owner

A prerequisite to assessing and taxing omitted property is giving reasonable notice to the property owner.


While county boards of equalization are authorized to hear protests as to the assessment of omitted property, the boards are not in session year round. Omitted property may not be added to the tax rolls until the taxpayer has been provided an opportunity to protest. Therefore, where omitted property is discovered after the equalization board has gone out of session or with insufficient time to perfect a taxpayer's appeal to the board, the property cannot be added to the rolls until the following year. If after appropriate notice and protest opportunity the board determines that taxable property was omitted, the same may be added to the tax rolls.
Where taxable property is omitted from the assessment and tax rolls, it may be entered on the assessment or tax rolls for the years omitted only after reasonable notice and an opportunity to be heard to the parties affected. Therefore, such property may not be entered on the assessment or tax rolls until the party affected has had an opportunity to protest before the Board of Equalization the determination that property was in fact omitted. Attorney General Opinion 00-23.

3.4 Assessing undervalued property – 68 O.S. § 2806

Real property is both the land and the improvements. Improvements becoming part of the real property should not be separately assessed from the land. If the land was assessed but the improvements were not, then the real property was undervalued. Thus, the property is not treated as omitted property but is treated as undervalued and underassessed property.


Current law is consistent with this decision. Real property for ad valorem taxation shall be defined as the land and all the buildings, structures, improvements, trees, permanent irrigation, and other fixtures that are affixed to the land and adds value to it. 68 O.S., § 2806

Omitted Property Certificates – 68 O.S. §§ 2844; 2845

If any taxable property is omitted in the assessment of any prior year or years, the assessor or county board of equalization shall ensure that the property is assessed and entered on the assessment and tax rolls as soon as the omitted property is discovered. (Must be consistent with A.G. Opinion 00-23). The property shall be listed for the year or years it should have been taxed. Personal property can be assessed as far back as three years, and real property as far back as 15 years.

This property must also be listed and assessed on the assessment and tax rolls. The certificate prescribed for this purpose by the State Auditor and Inspector’s Office is called the “Certificate of Assessment of Omitted Property.” The certificate is completed in triplicate, with one copy sent to the county treasurer, the county clerk, and the assessor. The “Certificate of Assessment of Omitted Property” is not required to be heard by the Board of Tax Roll Corrections.
OMITTED PROPERTY
Office of Attorney General
State of Oklahoma

Attorney General Opinion
00-23

April 27, 2000

The Honorable Clifton H. Scott
State Auditor and Inspector
100 State Capitol
2300 North Lincoln Boulevard
Oklahoma City, Oklahoma 73105

Dear Mr. Scott:

This office has received your request for an official Attorney General Opinion addressing the following question:

Pursuant to the provisions of 68 O.S. Supp. 1999, § 2844, what is the proper procedure for a county assessor to utilize in adding omitted property to the ad valorem tax roles?

Assessment of property for purposes of ad valorem taxation begins with the county assessor. It is the county assessor's duty to assess all taxable property within the county. See 68 O.S. Supp. 1999, § 2819. Section 2817 of Title 68 and Article X, Section 8 of the Oklahoma Constitution mandate that all taxable property be assessed annually as of the first day of January at its fair cash value. Your question poses a scenario wherein property has escaped taxation and been omitted from the tax roles. The assessment of omitted property is provided for at 68 O.S. Supp. 1999, § 2844:

A. If any real, personal, railroad, air carrier or public service corporation property is omitted in the assessment of any prior year or years, and the property thereby escapes just and proper taxation, at any time and as soon as such omission is discovered, the county assessor or the county board of equalization, or the State Board of Equalization in the case of public service corporation property or railroad and air carrier property, whose duty it is to assess the class of property which has been omitted, shall at any time cause such property to be entered on the assessment rolls and tax rolls for the year or years omitted, not to exceed the last fifteen (15) years as to real property and the last three (3) years as to personal property, and shall, after reasonable notice to the parties affected, in order that they be heard, assess such omitted property for said periods and cause to be
extended against the same on the tax rolls for the current year all arrearage of taxes properly accruing against it, including therein interest thereon at the rate of twelve percent (12%) per annum from the time such tax should have become delinquent.

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

Id. (emphasis added).

Section B of Section 2844 provides that if the tax is prevented from being collected for any year or years by reason of lack of notice, the tax can be added to the current or the following year. An assessor is not authorized to make a tax assessment for prior years during which assessment had been omitted by an arbitrary act of altering the tax rolls without giving the taxpayer any notice. See Dyer v. Dalton, 174 P.2d 252 (Okla. 1946). Subsections D and E of Section 2876 of Title 68 allow a taxpayer an opportunity to file a complaint if the taxpayer disputes an assessor’s action. Once such a protest has been filed, the assessor shall schedule an informal hearing. See id. § 2876(F). The assessor is required to take final action within five (5) working days of the hearing. See id. A taxpayer may file an appeal from the assessor’s action with the county board of equalization. See id. County boards of equalization are created at 68 O.S. Supp. 1999, § 2861(A). The boards’ authority is found at 68 O.S. Supp. 1999, § 2863(B), which provides:

It shall be the duty of the boards and they shall have the authority to:

1. Raise or lower appraisals to conform to the fair cash value of the property, as defined by law in response to a protest filed as prescribed by law;

2. Add omitted property;

3. Cancel assessments of property not taxable; and

4. Hear all grievances and protests filed with the board secretary as outlined in section 2877 of this title.

Id. (emphasis added).
While county boards of equalization are authorized to hear protests as to the assessment of omitted property, the boards are not in session year round. Title 68 O.S. Supp. 1999, § 2863(A) limits county boards of equalization to sessions commencing on April 1, or the first working day thereafter.\(^1\) Sessions end in all counties not later than May 31.\(^2\) Omitted property may not be added to the tax rolls until the taxpayer has been provided an opportunity to protest. Therefore, where omitted property is discovered after the equalization board has gone out of session or with insufficient time to perfect a taxpayer’s appeal to the board, the property cannot be added to the rolls until the following year. If after appropriate notice and protest opportunity the board determines that taxable property was omitted, the same may be added to the tax rolls.

It is, therefore, the official Opinion of the Attorney General that:

Pursuant to the provisions of 68 O.S. Supp. 1999, § 2844, where taxable property is omitted from the assessment and tax rolls, it may be entered on the assessment or tax rolls for the years omitted only after reasonable notice and an opportunity to be heard to the parties affected. Therefore, such property may not be entered on the assessment or tax rolls until the party affected has had an opportunity to protest before the Board of Equalization the determination that property was in fact omitted.

\(^1\) A county board of equalization may meet in special session between March 1 and March 31 to consider protests pending on or before the date of notice of the special session, if the number of protests pending would make it impractical to complete hearing and adjudication on or before May 31. In counties with an assessed valuation in excess of one billion dollars (\$1,000,000,000) sessions commence on the fourth Monday in January and end not later than May 31. See 68 O.S. Supp. 1999, § 2863(A).

\(^2\) In all counties a special session may be called if the board determines that the number of protests pending make it impractical to complete hearing and adjudication prior to May 31. The special session can run from June 1 to no later than July 31. See 68 O.S. Supp. 1999, § 2863(A).
USING ATTORNEY GENERAL'S OPINIONS

An Attorney General's Opinion is binding upon a state official affected by it, and they have a duty to follow and not disregard such opinions. This duty continues until a court of competent jurisdiction issues a judgment releasing them of the burden of compliance.*

An opinion of the Attorney General stating that an act of the legislature is unconstitutional is advisory only, and not binding upon state officers until finally so determined by an action in district court.*

*York v. Turpen 184 OK 26, 681P2d 763.
SPECIFIC FORMS

County Assessor’s Certificate Verifying Clerical Errors on Tax roll
Compliant of Erroneous Assessment and Order of Correction
County Assessor’s Certificate of Clerical Error
Certificate of Assessment of Omitted Real and/or Personal Property
County Assessor
Signed this ——— day of 20—.

NOTICE: Give detailed explanation of error in the following space:

As per request, in relation to complaint of erroneous assessment filed by
the complainant, the undersigned

County Assessor of the above named County, having examined and verified all records in my office, find error on the Tax Rolls for

County, State of Oklahoma

TAXABLE YEAR 20—.

CERTIFICATE NO.

COMPLAINT OF ERRONEOUS ASSESSMENT
AND ORDER OF CORRECTION

STATE OF OKLAHOMA, COUNTY OF ___________ SS.

I, THE UNDERSIGNED, BEING FIRST DULY SWORN, DEPOSE AND SAY THAT I AM THE LAWFUL AND SOLE OWNER, OR THE DULY AUTHORIZED AGENT OR ATTORNEY FOR THE OWNER, OF THE FOLLOWING DESCRIBED PROPERTY ASSESSED AND ENTERED UPON THE TAX BOOKS OF SAID COUNTY AND THAT CERTAIN TAXES HAVE BEEN ASSESSED, LEVIED AND EXTENDED UPON SAID TAX BOOKS AGAINST SAID PROPERTY, OR AGAINST THE PERSON NAMED IN SUCH ENTRY, AND IN THIS COMPLAINT AND AFFIDAVIT, THAT THE TAXES ARE UNPAID, OR THAT THE TAX HAS BEEN PAID IN THE AMOUNT OF $__________, AS EVIDENCED BY RECEIPT NO. _______ DATED _______ 20___ THAT THE ASSESSMENT AND TAX SHOULD BE CORRECTED AS SHOWN, AND, CERTIFICATE OF ERROR AND ORDER TO CORRECT THE TAX ROLLS ISSUED, OR, REFUND MADE, AS THE CASE MAY BE, IN THE MANNER PROVISED BY LAW.

FOR THE TAXABLE YEAR 20___

AS ENTERED AS SHOULD BE AS ORDERED

PERSONAL OR REAL PROPERTY ASSESSMENT

<table>
<thead>
<tr>
<th>DESCRIPTION</th>
<th>ENTERED</th>
<th>SHOULD BE</th>
<th>ORDERED</th>
</tr>
</thead>
<tbody>
<tr>
<td>IF CITY OR TOWN LOTS, STATE WHETHER IMPROVED OR VACANT</td>
<td>$__________</td>
<td>$__________</td>
<td>$__________</td>
</tr>
<tr>
<td>LEGAL DESCRIPTION: SECTION OR LOT (LOTS IF IMPROVED)</td>
<td>$__________</td>
<td>$__________</td>
<td>$__________</td>
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<tr>
<td>TOWNSHIP NUMBER</td>
<td>$__________</td>
<td>$__________</td>
<td>$__________</td>
</tr>
<tr>
<td>RANGE OR BLOCK NUMBER</td>
<td>$__________</td>
<td>$__________</td>
<td>$__________</td>
</tr>
<tr>
<td>NUMBER OF ACRES (RURAL)</td>
<td>$__________</td>
<td>$__________</td>
<td>$__________</td>
</tr>
<tr>
<td>LOCATED IN: TOWNSHIP, CITY OR TOWN ADDITION</td>
<td>$__________</td>
<td>$__________</td>
<td>$__________</td>
</tr>
<tr>
<td>SCHOOL DISTRICT NO. (NOW AND PRIOR)</td>
<td>$__________</td>
<td>$__________</td>
<td>$__________</td>
</tr>
<tr>
<td>GROSS OR TOTAL VALUATION OF PROPERTY ASSESSED</td>
<td>$__________</td>
<td>$__________</td>
<td>$__________</td>
</tr>
<tr>
<td>EXEMPTIONS OTHER THAN HOMEOWNER (Lodge, etc.)</td>
<td>$__________</td>
<td>$__________</td>
<td>$__________</td>
</tr>
<tr>
<td>EXEMPTION FOR HOMEOWNER DEDUCTION ALLOWED</td>
<td>$__________</td>
<td>$__________</td>
<td>$__________</td>
</tr>
<tr>
<td>NET VALUATION AFTER DEDUCTION FOR ALL EXEMPTIONS</td>
<td>$__________</td>
<td>$__________</td>
<td>$__________</td>
</tr>
<tr>
<td>TAX HOMESTEAD DEDUCTION SUBJECT TO (OLD DEBT LEVY)</td>
<td>$__________</td>
<td>$__________</td>
<td>$__________</td>
</tr>
<tr>
<td>TAX ON NET VALUATION (ALL LEVIES IN TAXING AREAS)</td>
<td>$__________</td>
<td>$__________</td>
<td>$__________</td>
</tr>
<tr>
<td>PENALTY FOR DELINQUENT ASSESSMENT (PERSONAL TAX)</td>
<td>$__________</td>
<td>$__________</td>
<td>$__________</td>
</tr>
<tr>
<td>SPECIAL TAX FOR</td>
<td>$__________</td>
<td>$__________</td>
<td>$__________</td>
</tr>
<tr>
<td>TOTAL OF ALL TAX CHARGES</td>
<td>$__________</td>
<td>$__________</td>
<td>$__________</td>
</tr>
</tbody>
</table>

AFFIANT FURTHER STATES THAT THE ERROR, MORE SPECIFICALLY DESCRIBED, IS AS FOLLOWS:

AND IS ONE OF THE SPECIFIC CLASSES OF ERRORS (NO. _______ OF THOSE ENUMERATED) SPECIFICALLY AUTHORIZED TO BE CORRECTED BY THE PROCEDURES SET OUT IN 68 OKL ST ANN 1 6 2871 , AND INCLUDED AS A PART HEREOF AS FULLY AS IF REASSERTED HEREIN:

WHEREFORE AFFIANT PRAYS THAT THE HONORABLE BOARD OF TAX ROLL CORRECTIONS OF SAID COUNTY RECEIVE THIS COMPLAINT AND PETITION FOR CORRECTION AND TO ORDER CORRECTION OF THE SAME AS SET FORTH ABOVE, AND TO HEAR THEREON AND TO ADVISE THE COMPLAINANT AND AFFIANT HEREBY, CAUSE THE COUNTY TREASURER AND COUNTY ASSESSOR TO APPEAR WITH THEIR TAX BOOKS AND ASSESSMENT RECORDS IN RELATION TO SAID PROPERTY AND TAX ASSESSMENT, REDUCE ALL TESTIMONY TO WRITING, AND DO ALL OTHER THINGS NEEDED AND EXPEDIENT FOR PROPER, LAWFUL AND JUST CORRECTION.

SIGNED

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<tr>
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<th>$__________</th>
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<tbody>
<tr>
<td>BY</td>
<td>$__________</td>
<td>$__________</td>
<td>$__________</td>
</tr>
<tr>
<td>AGENT OR ATTORNEY</td>
<td>$__________</td>
<td>$__________</td>
<td>$__________</td>
</tr>
</tbody>
</table>

BEFORE ME, THE UNDERSIGNED, PERSONALLY APPEAR

KNOWN TO ME TO BE THE IDENTICAL PERSON WHO DID EXECUTE AND SIGN THE FOREGOING COMPLAINT OF ERROR AND DID SIGN THE SAME IN MY PRESENCE AND DID SWEAR (OR AFFIRM) ON HIS OATH THAT THE FACTS SET FORTH HEREIN ARE TRULY AND CORRECTLY STATED AND THAT HE DID SAW AND EXECUTE THE SAME OF HIS OWN FREE WILL AND ACCORD.

SUBSCRIBED AND SWORN TO BEFORE ME, THIS _______ DAY OF _______ 20___

<table>
<thead>
<tr>
<th>SEAL</th>
<th>NOTARY PUBLIC</th>
</tr>
</thead>
<tbody>
<tr>
<td>MY COMMISSION EXPIRES</td>
<td>COUNTY CLERK</td>
</tr>
</tbody>
</table>

COMMISSION NO.
ORDER OF CORRECTION BOARD AND CERTIFICATE OF ERROR

STATE OF OKLAHOMA, COUNTY OF ____________________________; SS. BEFORE THE BOARD OF TAX ROLL CORRECTIONS

ON THE ________________________ DAY OF ________________________, BEFORE THE BOARD OF TAX ROLL CORRECTIONS, THE WITHIN AND FOREGOING COMPLAINT OF ERROR OF TAX ROLLS COME ON FOR HEARING, THE COUNTY CLERK BEING PRESENT IN PERSON OR BY AN AUTHORIZED DEPUTY AS REQUIRED BY LAW TO MAKE AND KEEP THE RECORD, THE COMPLAINANT OR HIS AGENT OR ATTORNEY HAVING BEEN DILLY NOTIFIED OF THE DAY AND HOUR SET FOR SUCH HEARING AND SO AFFORDED FULL AND AMLE OPPORTUNITY TO BE HEARD, THE COUNTY TREASURER AND COUNTY ASSESSOR WERE REQUIRED TO BE PRESENT WITH THEIR TAX BOOKS (OR THE DISCLOSURES THEREIN WERE SUPPLIED BY AFFIDAVIT BY THEIR OWN HANDS AND UNDER OATH);

WHEREUPON THE RECORDS WERE DILY EXAMINED, ALL TESTIMONY WAS REDUCED TO WRITING AND MADE A PART OF THE RECORDS HEREOF, AND THE BOARD FOUND THAT THIS COMPLAINT DOES NOT PRESENT A PROPER CAUSE TO COME BEFORE THIS BOARD AND THAT THE REQUEST SHOULD BE ALLOWED, AND CREDIT, OR REFUND (IF PAID), IN THE AMOUNT OF ________________________ BE GRANTED FOR THE FOLLOWING REASONS:

__________________________________________________________
__________________________________________________________
__________________________________________________________
__________________________________________________________

IF ALLOWED AND THE TAX IS UNPAID, THE SECRETARY IS HEREBY ORDERED TO NOTIFY THE COUNTY TREASURER TO CORRECT THE TAX ROLLS ACCORDING TO THE FINDING OF THIS BOARD:

IF ALLOWED AND THE TAX IS PAID, THE SECRETARY IS HEREBY ORDERED TO MAKE REFUND IN THE MANNER PROVIDED BY LAW.

By ORDER OF THE BOARD OF TAX ROLL CORRECTIONS AT ________________________, OKLAHOMA, THIS ________________________ DAY OF ________________________, 20 ________________________.

ATTEST AND SEAL: ________________________ COUNTY CLERK
_________________________________________ CHAIRMAN OF BD. OF CO. COMM.
_________________________________________ DEPUTY CHAIRMAN, EQUALIZATION BD.
_________________________________________ VICE-CHAIRMAN COUNTY ASSESSOR

AND, IF THE TAX BE NOT PAID AS DISCLOSED HEREIN, TWO COPIES HEREOF ARE HEREBY TRANSMITTED TO THE COUNTY TREASURER AS "CERTIFICATE OF ERROR" OF THE VALUE AFORESAID. TO BE, BY HIM, ACCEPTED IN LIEU OF TAX SATISFACTION OF TAX CHARGES TO THE EXTENT HEREOF.

<table>
<thead>
<tr>
<th>No.</th>
<th>RANGE OF BLOCK</th>
<th>BY</th>
<th>DATE</th>
<th>DATE</th>
</tr>
</thead>
<tbody>
<tr>
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</table>

ENDORSEMENT

STATE OF OKLAHOMA, COUNTY OF ____________________________; SS.

1. THE UNDERSIGNED COUNTY TREASURER (OR LAWFUL DEPUTY), DO HEREBY CERTIFY THAT THE FOREGOING ORDER OF CORRECTION HAS BEEN FULLY COMPLIED WITH AND ENTERED, EITHER

2. BY ENTRY OF CREDIT FOR $ ________________________ TO THE TAX ROLL ENTRY ALREADY MADE WHERE THE ERROR WAS ONLY IN THE AMOUNT AND EXECUTION OF THE TAX, OR

BY CLOSING THE PREVIOUS ACCOUNT BY ENTRY OF CERTIFICATE NUMBER AND SHOWING OF, AND BY MAKING RE-ENTRY AT

LINE ________________________ PAGE ________________________ BOOK NO. ________________________ OF THE TAX ROLLS OF SAID YEAR, OF THE CORRECT AND PROPER ENTRIES IN ACCORD WITH THE FOREGOING CERTIFICATE; AND BY THIS ENDORSEMENT, FOR THE ORIGINAL COPY GIVEN TO THE TAX DEBTOR, AND FOR THE DUPLICATE FOR RETURN TO THE COUNTY CLERK FOR CREDIT UPON HIS ACCOUNT WITH THE TAX CHARGES OF SAID YEAR.

DONE AT ________________________, OKLAHOMA, THIS ________________________ DAY OF ________________________, 20 ________________________.

_________________________________________ COUNTY TREASURER
_________________________________________ DEPUTY
STATE OF OKLAHOMA  

COUNTY OF ___________________  

I, the undersigned Clerk of the County and State aforesaid, do hereby certify that,

(NAME) ______________________________________ (ADDRESS) ___________________________ was the record owner of the following described real property, situated in the above named County and State, on January 1, 20____, as shown by the records of my office:

LEGAL DESCRIPTION ____________________________________________________________

SECTION OR LOT __________________ TOWNSHIP NO. __________ RANGE OR BLOCK ______

RURAL OR URBAN _______________ ACRES ____________ (IF RURAL)

CITY, TOWN OR ADDITION THEREO ____________________________ VERIFIED THIS _______ DAY OF _______ 20____

(SEAL)

By _______________________________ COUNTY CLERK

COUNTY CLERK’S CERTIFICATE OF INSPECTION OF ASSESSMENT ROLLS (ITEM 7) AND COMPUTATION OF TAX EXTENSION (ITEM 5b)

STATE OF OKLAHOMA  

COUNTY OF ___________________  

I, the undersigned Clerk of the County and State aforesaid, hereby certify that, (a) if this certificate be issued because of an error in transcribing to the tax rolls from the assessment rolls, I have made a visual inspection of the said assessment rolls for the taxable year 20____, and that, with respect to the real property described on the reverse side hereof, there is a complete absence of all indication of errors or other alteration of the original entry, and/or (b) if the School District designation with respect to such property results in the application of tax levies not applicable thereto, I have recomputed the tax due on such property for the taxable year above indicated by applying the levies, for which such property is legally liable, to the finally equalized valuations as shown by the assessment rolls, in the following manner:

GROSS VALUATION

________________________________________

As Shown By,

ASSESSMENT ROLLS  

TAX ROLLS

1. $__________  

2. $__________  

3. $__________  

4. $__________

5. Total levies for all taxing units (County-City-Town-School) except levies for old sinking fund purposes ___________ Mills

6. Total levies for old sinking funds only (All Taxing Units) ___________ Mills

APPLYING:  

ITEM 5. ___________ MILLIS X ITEM 3. VAL. $__________ EQUALS TAX $__________

APPLYING:  

ITEM 6. ___________ MILLIS X ITEM 1. VAL. $__________ EQUALS TAX $__________

(SEAL)

TOTAL TAX DUE AS RECOMPUTED: $__________

VERIFIED AND RECOMPUTED THIS _______ DAY OF _______ 20____

By _______________________________ COUNTY CLERK

STATE OF OKLAHOMA  

COUNTY OF ___________________  

I, the undersigned Clerk of the County and State aforesaid hereby certify that the School District formerly designated as number ________, and which embraces the real property described on the reverse side hereof, was annexed to School District No. _________ on the _________ day of _________ 20____.

VERIFIED THIS _______ DAY OF _______ 20____

By _______________________________ COUNTY CLERK

COUNTY CLERK’S VERIFICATION OF DUPLICATE ASSESSMENT

ITEM 6)

STATE OF OKLAHOMA  

COUNTY OF ___________________  

I, the undersigned Treasurer or Deputy of the County and State aforesaid hereby certify that I have examined the tax rolls for the taxable year 20____ and find that the real property described on the reverse side hereof has been assessed twice for the same taxable year, the said assessments appearing in book _________, page _________, line _________, and also in book _________, page _________, line _________, and that the two assessments are identical in every specific detail. Verified this _______ day of _________ 20____.

______________________________

COUNTY TREASURER OR DEPUTY

______________________________

TITLE
NOTICE - ON REAL ESTATE ONLY, 68 O.S.A.S. § 2845 ALLOWS THE TAXPAYER 30 DAYS WITHIN WHICH TO TENDER THE BASE TAX WITHOUT INTEREST.

County Assessor

WITNESS MY HAND THIS DAY OF

ASSSESSMENTS AND TAXES HEREOFOR CERTIFICATED.

You are hereby notified that by virtue of this certificate the County Treasurer is authorized and directed to enter the

Above enumerated taxes on his tax rolls for the current year in the name of the property subject to ad valorem taxation. That such property has been assessed to have been owned for the year or years indicated. That the discovery of such

property is made after the current taxes have been delivered to the County Treasurer, that such property is owned by

I further certify that I have given legal notice as required by law to

The undersigned, on the 30th day of June, 20


| County, Oklahoma |

AND COUNTY CLERK:

Certificate of Assessment of Unlisted Real and/or Personal Property

SELECTED STATUTES

68 O.S. 2001 § 2806 – Real property defined

68 O.S. 2001 § 2819 – Determination of taxable value

68 O.S. 2001 § 2832 – Persons required to list property

68 O.S. 2001 § 2843 – Unlisted personal property-Discovery and assessment

68 O.S. 2001 § 2844 – Omitted property-Entry on assessment rolls and tax rolls-Assessments-Arrearages-Taxing during current year

68 O.S. 2001 § 2845 – Assessment of unassessed real estate

68 O.S. 2001 § 2846 – Undervalued and underassessed property-Reassessment

68 O.S. 2001 § 2876 – Increase in valuation-Notice-Complaints and hearing
68 O.S. 2001 § 2806. Real property defined.

Real property, for the purpose of ad valorem taxation, shall be construed to mean the land itself, and all rights and privileges thereto belonging or in any wise appertaining, such as permanent irrigation, or any other right or privilege that adds value to real property, and all mines, minerals, quarries and trees on or under the same, and all buildings, structures and improvements or other fixtures, including but not limited to improvements such as barns, bins or cattle pens, or other improvements or fixtures of whatsoever kind thereon, exclusive of such machinery and fixtures on the same as are, for the purpose of ad valorem taxation, defined as personal property.


Taxable values of real and personal property shall be established in accordance with the requirements of Sections 8, 8B and 8C of Article X of the Oklahoma Constitution. The county assessor shall determine the taxable value of all taxable property that the assessor is required by law to assess and value and shall determine such taxable value in accordance with the requirements of Sections 8, 8B and 8C of Article X of the Oklahoma Constitution.

68 O.S. 2001 § 2832. Persons required to list property.

A. Property subject to ad valorem taxation shall, unless otherwise provided, be listed for taxation by the owner thereof or his duly authorized agent.
B. Property belonging to or controlled by the following shall be listed by the following persons or their duly authorized agents:
   1. A corporation or joint stock association, by an officer;
   2. A partnership, by a partner;
   3. A minor child or insane person, by the guardian or the person having such property in charge;
   4. A person for whose benefit it is held in trust, by the trustee;
   5. The estate of a deceased person, by the executor or administrator;
   6. A body politic or corporate, by the proper agent or officer thereof;
   7. Manufacturers and others in the hands of an agent, by such agent in the name of the principal;
   8. Persons, companies, or corporations whose assets are in the hands of receivers, by such receiver; and
   9. Merchandise consigned or floor-planned to a dealer by a manufacturer or jobber, by the dealer.
C. A person required to list property in behalf of another shall list it separately from his own, naming the person to whom it belongs. The undivided property of a person deceased, belonging to his heirs, may be listed as belonging to such heirs without enumerating them.


A. If any personal property is not listed with the county assessor on or before March 15th of any year, the county assessor shall proceed, as soon as the omission is discovered, to ascertain and estimate from the best information obtainable, the amount and value of such property, and shall list and assess the same in the name of the owner thereof if such owner be known. If the owner is unknown the property may be listed and assessed in the name of the person in charge of such property as agent, or it may be listed and assessed to "unknown owner"; and the failure of the county assessor to ascertain the true owner shall not invalidate the assessment.

B. If any person, firm, association or corporation has any property belonging to others under his control or charge or in his possession, as warehouseman, factor, bailee, agent, employee or otherwise, he shall, upon written request of the county assessor or county board of equalization, make report, under oath, of the amount and ownership of such property, and upon refusal, neglect or failure to make such report, such person, firm, association or corporation shall be personally liable for the taxes on such property.

C. No assessment of personal property not listed with the county assessor shall become final until ten (10) days after the county assessor has mailed to the last-known address of the person, firm, association, corporation or company he believes to be the owner, or to the person in charge of such property, a copy of the assessment sheet upon which such property is listed, and which assessment sheet shall show a reasonable itemization and description of the property assessed and the value thereof, and shall show that the list and assessment was made by the county assessor.


A. If any real, personal, railroad, air carrier or public service corporation property is omitted in the assessment of any prior year or years, and the property thereby escapes just and proper taxation, at any time and as soon as such omission is discovered, the county assessor or the county board of equalization, or the State Board of Equalization in the case of public service corporation property or railroad and air carrier property, whose duty it is to assess the class of property which has been omitted, shall at any time cause such property to be entered on the assessment rolls and tax rolls for the year or years omitted, not to exceed the last fifteen (15) years as to real property and the last three
(3) years as to personal property, and shall, after reasonable notice to the parties affected, in order that they be heard, assess such omitted property for said periods and cause to be extended against the same on the tax rolls for the current year all arrearage of taxes properly accruing against it, including therein interest thereon at the rate of twelve percent (12%) per annum from the time such tax should have become delinquent.

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


When any real estate has failed to be assessed for ad valorem taxes for any prior year or years, the same shall be assessed for ad valorem taxes for said prior year or years by the county assessor, and the taxes thereupon may be paid without the payment of any penalty or interest accruing prior to the date of assessment, provided that all taxes are paid within thirty (30) days after the date of such assessment and the sending of written notice thereof. If not so paid within said thirty (30) days, it shall be the duty of the county treasurer to collect the same in the manner provided by law, together with penalty at the lawful rate calculated from the date the same would have been delinquent had it been timely assessed, but in no event to an extent greater than one hundred percent (100%) of the principal amount thereof and not to exceed fifteen (15) years.


A. Whenever real or personal property has in any year, through false representations or concealments willfully and fraudulently made by the owner or agent in listing the same for assessment, been grossly undervalued and has escaped for that year just and proper taxation, the county assessor or the State Board of Equalization, whose duty it is to assess such class of property shall, at any time within two (2) years from the date of such original undervaluation, cause such property to be entered on the assessment roll and tax books for the year or years so undervalued.

B. After reasonable notice to the party affected, in order that he may be heard, the county assessor or State Board of Equalization shall reassess such undervalued property and cause same to be extended against such property on the tax list or rolls for the current year, with all arrearage of taxes thus properly accruing against it, including
interest thereon at the rate of six percent (6%) per annum from the time such tax should have become delinquent.

C. As to such property so grossly undervalued in assessment no contract shall be made with anyone by either the State Board of Equalization, or the board of county commissioners, to pay anyone a commission or in any way causing same to be reassessed; but it shall be the duty of the State Board of Equalization, with the assistance of the Attorney General and the county assessor, with the assistance of the district attorney, to make and cause such reassessment to be made.


A. If the county assessor shall increase the valuation of any property above that returned by the taxpayer, or in the case of real property increase the valuation over the assessment from the preceding year, or pursuant to the requirements of law if the assessor has added property not listed by the taxpayer, the county assessor shall notify in writing the person in whose name any such property is listed, giving the amount of such valuation as increased or valuation of property so added.

B. The notice required by this section shall, for cases in which the valuation of real property has increased, include the fair cash value of the property as used in determining the assessment for the preceding and current year, the taxable value for the preceding and current year, if different than the fair cash value, and the assessment percentage for the preceding and current year.

C. The notice required by this section may be mailed or delivered to the last-known address of the person affected or to the person in charge of or in possession of the property and shall clearly be marked with the date upon which the notice was prepared. Any notice dated as required by this section shall be mailed or delivered within one (1) working day of such date. The notice shall describe the property with sufficient accuracy to notify the taxpayer as to the property included, together with the assessed value of the property. Duplicate copies of the notice, showing the date of issuance and mailing or delivery, shall be kept in the office of the county assessor. Such record shall be prima facie evidence as to the fact of notice having been given as required by this section.

D. The taxpayer shall have twenty (20) calendar days from the date the notice was mailed or in the event that notice was delivered from the date of delivery in which to file a written complaint with the county assessor specifying objections to action taken by the county assessor; provided, in the case of a scrivener's error or other admitted error on the part of the county assessor, the assessor may make corrections to a valuation at any time, notwithstanding the twenty-day period specified in this subsection. The complaint shall set out the pertinent facts in relation to the matter contained in the notice in ordinary and concise language and in such manner as to enable a person of common understanding to know what is intended. The complaint shall be made upon a form prescribed by the Oklahoma Tax Commission.
E. A taxpayer may file a complaint if the valuation of property has not increased or decreased from the previous year if the complaint is filed on or before the first Monday in May. Such complaint shall be made upon a form prescribed by the Oklahoma Tax Commission.

F. The county assessor shall schedule an informal hearing with the taxpayer to hear the protest as to the disputed valuation or addition of omitted property. The assessor shall take final action upon the matter disputed within five (5) working days of the date of the informal hearing and shall mail or deliver notice of final action to the taxpayer. The notice of final action shall clearly be marked with the date upon which the notice was prepared. Such notice shall be mailed or delivered within one (1) working day of such date. Within ten (10) working days of the date the notice is mailed or delivered, the taxpayer may file an appeal with the county board of equalization. For purposes of this section, "working days" shall mean Monday through Friday and shall exclude Saturday and Sunday and any legal holidays. The appeal shall be made upon a form prescribed by the Oklahoma Tax Commission. One copy of the form shall be mailed or delivered to the county assessor and one copy shall be mailed or delivered to the county board of equalization.
REFERENCES

STATUTORY REFERENCES:

68 O.S. 2001, § 2819
   § 2844-A, B
§ 2876
§ 2845
§ 2846
§ 2832-B
§ 2806
§ 2843

CASE LAW:

Independent Pipeline Co. et. at. v. State Board of Equalization, No. 24379, Okl. 33 P2d (1934)
Chickasha Cotton Oil Co. v. Grady County et.al., No. 24538, Okl. 58 P2d (1936)
Kennedy et. al. for Taxation in Osage County, No. 24053, Okl. 58 P2d (1936)
Dyer et. al. v. Dalton, No. 32243, Okl. 174 P2d (1946)
Roberts, County Treasurer v. Fair, No. 24535, Okl. 50 P2d (1935)

ATTORNEY GENERAL OPINION:

00-23, April 2000
Appendix C

Clerical Error
Statutory References
Oklahoma Statutes Citationized
Title 68. Revenue and Taxation
Chapter 1
Article Article 28
Section 2874 - Authority of County Treasurer to Correct Tax Rolls - Clerical Error Certificates.

Cite as: O.S. § 2874

Whether upon discovery by the county treasurer or county assessor or any of their deputies, or upon complaint of the taxpayer, the agent or attorney or any person acting on behalf of the taxpayer, upon certificate of clerical error issued by the county assessor to the county treasurer, with a copy to the county clerk and a copy retained, the county treasurer shall be authorized to make correction upon the tax rolls of either of the following specifically enumerated errors of strictly clerical import not involving valuations assessed and equalized and not involving any exemption allowed whether of homestead, service in the armed forces, charitable, educational, religious, or other authorized exemptions, and which clerical error certificates shall issue only under the conditions stated as to each, as follows:

1. Error in the name of the person assessed, upon affidavit verifying the name of the true owner as of January 1 of the taxable year involved;

2. Error in the address of the person, firm or corporation assessed, when furnished by such person or a representative of the firm or corporation;

3. Error in the legal description of real property, when verified by the county clerk, certifying to the description on his land records as of January 1 of the taxable year involved;

4. Error in land-list entry, such as section or part thereof, township, range or of lot or block or of designation of urban addition, when verified by the county clerk to the land records or plats on file, as of January 1 of the taxable year involved;

5. Error in the school district designation as of the date when school district tax levies attached themselves to such property, when verified by the county assessor certifying to the date, if after January 1st of such taxable year, when the school district designation or location changed, or the school district designation prior to January 1st of such taxable year where no change of the boundaries of such district was thereafter ordered during such taxable year. If a school district boundary change occurs after April 15 of such taxable year, the opinion of the district attorney as to the applicable school district designation to such property for purpose of levy of such taxable year shall be attached to the certification;

6. If the error of school district designation caused the application of levies not applicable thereto, then also the "extension of tax", when verified by the county clerk with proof of computation attached;

7. Error commonly called duplicate assessment, but only in instances where the two entries as delivered to the county treasurer are verified by the county treasurer or deputy to be completely identical in every specific detail; and

8. Error in transcribing to the tax rolls from assessment rolls or assessment lists, conditioned on
complete absence of all indication of erasures or other alteration of original entry when confirmed by endorsement to the certificate by the county clerk certifying to personal visual inspection and verifying absence of all indication of erasure or change in original entry.


None Found.

None Found.
Appendix D

Ad Valorem Tax Exemptions

A Guidebook Published By The Oklahoma Tax Commission
OKLAHOMA

AD VALOREM TAX EXEMPTIONS

Prepared by
Oklahoma Tax Commission
Ad Valorem Division
Jeff Spelman, CAE, Director

Presentation
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NOTICE

This document contains discussions which include areas of law which are unclear or in dispute. The comments on these areas of law and the interpretation are for instructional purposes. They do not necessarily reflect the views of the Oklahoma Tax Commission or the General Counsel's Office.

Each county official should consult with his local district attorney should a dispute arise in his county as to the proper interpretations.
ACKNOWLEDGEMENT

The goal of this publication is to provide the county assessor's of Oklahoma with a reference tool that is unique to the state. Several representatives of state and local government are noted for their contributions.

Oklahoma Attorney Generals Office
Oklahoma Tax Commission Legal Div.
Center for Local Government Technology
Oklahoma County Assessor's Office
Tulsa County Assessor's Office
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Oklahoma Ad Valorem Tax Exemptions

How Property Obtains Taxable Status

Ad valorem taxability of property is addressed in part by 68 O.S., Section 2804, which states that all property in Oklahoma, whether real or personal, shall be subject to ad valorem taxation. Property may be exempted from ad valorem taxation if exempted by law or by reason of payment of an in lieu tax (In lieu tax is payment instead of ad valorem tax)

Additionally, the Constitution prescribes that "the legislature shall pass no law exempting any property within [Oklahoma] from taxation, except as otherwise provided in this Constitution." The first section of this chapter addresses those exemptions that are provided for through the Constitution (self-executing) and the second section addresses property exempt by reason of classification or "in lieu," which are statutory exemptions.

Self-Executing Constitutional Exemptions

Property is never exempt from taxation unless by special constitutional and definite provisions of law. The Legislature may qualify, curtail, or annul any exemption unless the constitutional provision that grants the exemption is self-executing.¹

A self-executing provision means that the provision is operative without enabling or supplemental legislation. Constitutional provisions are considered self-executing that exempt certain classes of property or direct that the Legislature shall not tax designated property.²


²supra
The Legislature cannot grant exemptions that are constitutionally unrecognized or enlarge constitutional exemptions.\(^3\) Furthermore, the Legislature may not change or extend a Constitutional provision that is a self-executing grant of power to the taxpayers if the provision is self-complete.\(^4\)

Self-executing constitutional exemptions are not subject to taxation and any tax assessed would be illegal and void. Voluntary payment by the taxpayer of an invalid tax does not constitute a waiver or ratify the tax if a timely application for refund is filed pursuant to law.

### Classes of Constitutional Exemptions

The Constitution recognizes two separate classes of exemptions: (1) property exempt by use and (2) property exempt by ownership. Examples of both classes are given in the following sections.

**Property Exempt by Use**

The use to which the property is dedicated is the test as to whether the property is exempt from taxation and is a question of fact.\(^5\)

The Constitution exempts property from taxation that is used for:

- free public libraries,
- free museums,

\(^3\)Williams v. City of Norman, 85 Okl. 230, 205 P. 144, 147 (1922)

\(^4\)County Assessor, Okla. County v. United Broth. of Carpenters and Joiners of America Local No. 329, 202 Okl. 162, 211 P. 2d 790, 794 (1949)

\(^5\)State v. Alumnus of Tan Beta Chapter of Chi Omega fraternity 176 Okla. 186, 55 P 2d 134 (1936); Board of Commissioners of Tulsa County v. Sand Springs Home 185 Okla. 305, 92 P.2d 376 (1939); State v. Board of County Commissioners of Nowata County 25 P.2d 1074 Okla. (1933)
• public cemeteries,\(^6\)

• property used exclusively for religious and charitable purposes,\(^7\)

• all property of the US except property for which a federal agency obtains title through foreclosure,\(^8\)

• property of federal agency obtained by voluntary or involuntary liquidation or bankruptcy that was previously subject to taxation unless the taxation of such property is prohibited by federal law,

• all property of Oklahoma and of counties and municipalities of Oklahoma along with various other political subdivisions within the state,\(^9\)

• household goods of the heads of families, along with implements and livestock not exceeding $100 in value

• all growing crops

**Property Exempt by Constitutional Provisions**

The following property is exempt from taxation because it is expressly made so by the framers of the Oklahoma Constitution:

---


\(^7\)In Re Park College, 170 Okla. 132, 39 P.2d 105 (1935); Comanche County v. Central Baptist Church, 136 Okla. 99, 276 P. 726 (1929); Baptist Building Corp. v. Barnes Okla. App. 874, P 2d 68 (1994); OTC Bulletin 95-46

\(^8\)Davidson v. Camtel Okla. App 876 P.2d 725 (1993)

\(^9\)Commissioners of Land Office v. Gaylon 154 Okla. 204, 7 P.2d 484 (1932)
Constitution:

- All property owned by the Murrow Indian Orphan Home located in Coal County
- All property owned by the Whitaker Orphan Home located in Mayes County
- All fraternal orphan homes and other orphan homes along with their charitable funds

*NOTE:* This property is exempt as long as it is used exclusively as free homes or schools for orphan children and for poor and indigent persons.\(^\text{10}\)

Indian Property

The various state and federal courts, including the United States Supreme Court, appear to be gradually moving toward removing certain tax exemptions heretofore enjoyed by American Indians and their respective tribes, bands or groups.\(^\text{11}\) Congress has also moved in years past\(^\text{12}\) to give the Indians more direct control over their lands. Of course, such freedom necessarily entails the responsibility of being subjected to an array of taxes.

One area of considerable interest is the leasing of Indian land to non-Indians. The U.S. Supreme Court ruled some time back that the Indians could not bargain with their tax exemption with non-Indians and subjected the leaseholds of the Yakima Indian Nation to taxation.\(^\text{13}\)

\(^{10}\)Hoover Equipment Co. v. Board of Tall Roll Corrections 436 P.2d 645, Okla (1947) Attorney General Opinion 82-182.

\(^{11}\)County of Yakima et al v. confederated tribes and bands U.S. Sup. Ct. Nos. 90-408 and 90-577, 1-14-92

\(^{12}\)Indian Reorganization Act of 1934 (25 USC §461)

More recently the federal 8th circuit federal court of appeals, which includes Arkansas, Iowa, Minnesota, Missouri, Nebraska, North and South Dakota, held in a case from a Minnesota trial court that a section of a 1934 law that allowed the Secretary of the Interior to place land into trust for tribes or individual members was unconstitutional.\textsuperscript{14}

The Indian Reorganization Act of 1934 delegated to the Department of Interior the right to acquire non-reservation land and hold it in trust..."For public use that benefits Indian tribes". The court ruled that statute 465 of the act unconstitutionally delegates congressional power to the executive branch of government without specifying the uses to which the land must be put. The courts decision was that specific guidelines Congress must enact for the department to follow.

The law in Oklahoma which is, of course, subservient to the federal jurisdiction, begins with the concept that all Indian property held in trust by the united states government or its agencies, such as The Bureau of Indian Affairs (BIA) is exempt from ad valorem taxes.\textsuperscript{15}

It should be emphasized that any Indian property not held in trust as set out above is without tax exemption and should be assessed and placed on the tax rolls of the proper county.\textsuperscript{16}

Further, whether the BIA will exercise its discretion by placing certain Indian land in trust will depend upon exigent facts and circumstances. In some cases the BIA has refused to grant trust status to the property of some applicants.

Indian owned personal property may be liable to ad valorem levies if the property is located upon trust land of a different tribe, band or group. However, caution should be taken before embarking upon this course.

\textsuperscript{14}State of South Dakota v. U.S.Department of the Interior, 69 F3rd 878, November 7, 1995

\textsuperscript{15}61 Stat. 731; 69 Stat 666, August 11, 1955

\textsuperscript{16}25 U.S.C. Sec. 501
Indian housing authorities operating under 68 O.S. § 1051 et seq (1971) are required by the act to insure that the tribes reside in Oklahoma and that their geographical scope must be set by legislation or determined by the court on a case by case basis. Also, an Indian authority desirous of commencing a project within another authorities jurisdiction must first obtain permission from that authority.17

Property Exempt by Location (Freeport)

"FREEPORT" property - All property consigned to a consignee in this state from outside this state to be forwarded to a point outside this state, which is entitled under the tariffs, rules, and regulations approved by the Interstate Commerce Commission to be forwarded at through rates from the point of origin to the point of destination, if not detained in this state for a period of more than ninety (90) days, shall be deemed to be property moving in interstate commerce, and no such property shall be subject to taxation in this state; provided, that goods, wares and merchandise, whether or not moving on through rates, shall be deemed to move in interstate commerce, and not subject to taxation in this state if not detained more than nine (9) months where such goods, wares, and merchandise are so held for assembly, storage, manufacturing, processing or fabricating purposes; provided further, that personal property consigned for sale within this state must be assessed as personal property.

No Statutory Reference - Constitutional Only

Property Exempt by Special Election

The Board of County Commissioners of any county may call a special election to determine whether or not household goods of the heads of families and livestock employed in support of the family located within the county shall be exempt from ad valorem taxation. The Board shall also call an election if no less than 25 percent of the registered voters of the county sign a petition requesting an exemption. If the voting electors pass the exemption, it will become effective on January 1 of the

17Attorney General Opinion 78-136 July 31, 1978
following year.

Manufacturing Establishments and Public Utilities Exemptions

The Legislature may authorize any incorporated city or town, by a majority vote of its voting electors, to exempt manufacturing establishments and public utilities from municipal taxation for a period not exceeding five years, as an inducement to their location.

Intangible Personal Property Exemptions

NOTE: All intangible personal property tax has been repealed. The following is for historical purposes only.

Intangible personal property, as defined below, shall not be subject to ad valorem taxation or to any other tax in lieu of ad valorem tax within Oklahoma:

- Money and cash on hand, including currency, gold, silver, and other coins, bank drafts, certified checks, and cashier's checks

- Money on deposit in any bank, trust company, or other depository of money, within or without Oklahoma, including certificates of deposit

- Accounts and bills receivable, including brokerage accounts and other credits, whether secured or unsecured

- Bonds, promissory notes, debentures (a voucher acknowledging that the signer owes a debt) and all other evidences of debt, whether secured or unsecured, except notes, debentures, and other evidences of debt secured by real estate mortgages that are subject to the Mortgage Registration Tax under Sections 12351–12362, inclusive, Oklahoma Statutes, 1931.

- Shares of stock or other written evidence, or

68 O.S. 1961, §1171-1182

Const. Art. 10 §6A
State Quest. 460,
Legislative Ref.
No. 173
proportional shares of beneficial interests in corporations, joint stock companies, associations, syndicates, express or business trusts, special or limited partnerships, or other business organizations

• All interests in property held in trust or on deposit within or without Oklahoma, and whether or not evidenced by certificates, shares, or other written evidence of beneficial ownership

• Final judgments for the payment of money

• All annuities and annuity contracts

Qualifying Manufacturing Concern Exemptions

For purposes of this section, a "qualifying manufacturing concern" means a concern that;

• is not engaged in business in Oklahoma or does not have property subject to ad valorem taxation in Oklahoma AND

• constructs a manufacturing facility in Oklahoma, OR

• acquires an existing facility that has been unoccupied for 12 months prior to acquisition; OR

• is engaged in business in Oklahoma or has property subject to ad valorem taxation in Oklahoma AND

• constructs a manufacturing facility in Oklahoma at a different location from present facilities and continues to operate all of its facilities, OR

• acquires an existing facility that has been
unoccupied for 12 months prior to acquisition and continues to operate all of its facilities.

For the purposes of inducing any manufacturing concern to locate or expand manufacturing facilities within any county of this state, a manufacturing concern shall be exempt from the levy of any ad valorem taxes upon new, expanded, or acquired manufacturing facilities for a period of five years. This type of exemption applies to expansions of existing facilities. In addition, the exemption shall be limited to the amount of the increase in ad valorem taxes that results from the expansion.

The Legislature defines the term "manufacturing facility" for purposes of a qualifying manufacturing concern exemption in order to promote full employment of labor resources within the state. A manufacturing facility that qualifies for an exemption according to the current definition in place at the time of application approval of "manufacturing facility" is eligible for the exemption regardless of whether this definition changes at a later time. In other words, the facility will be exempt from ad valorem taxation regardless of whether new statutes exclude it from being considered a "manufacturing facility." However, the continuing exempt status will remain contingent upon the companies’ maintaining the operation of all facilities, including the expanded portion each year that an exemption is sought.

Reimbursing Lost Revenues

Furthermore, the Legislature shall reimburse all common schools, county governments, cities and towns, emergency medical service districts, vocational-technical schools, junior colleges, county health departments, and libraries for revenues lost to such entities as a result of a qualifying manufacturing concern exemption.

Adding Assessed Valuation

The assessed valuation of property owners exempt from this type of exemption shall be added to the assessed valuation of taxable property in computing the limit on indebtedness of political subdivisions. A qualifying manufacturing concern, as it relates here, is further defined in 68 O.S. §2902.
Exemptions for Tax Relief for Historic Preservation, Reinvestment, or Enterprise Areas

The Legislature, by law, may grant incorporated cities, towns, or counties the ability to provide incentives, exemptions, and other forms of relief from taxation for historic preservation, reinvestment, or enterprise areas that show economic stagnation or decline. Relief from taxes imposed by other local taxing jurisdictions shall only be allowed by contractual arrangement with the municipal or county governing body. The law requires public hearings before such relief may be granted, and further provides for the local initiative power and referendum of the people.

The legislature may set limitations on:

- cumulative incentives and relief provided by Article 10, Section 6C,
- time period for the exemptions,
- geographical area of the jurisdiction covered,
- percentage of the tax base of the jurisdiction eligible for the relief programs, and
- threshold limits of investment credits and jobs created.

Exemptions for Public Investments

The Legislature, by law, may authorize that cities, towns, or counties may specifically use local taxes and local assistance in development financing, or as a specific revenue source for other public entities in the area in which the improvements take place. In addition, the Legislature may direct the apportionment of the taxes and fees specified in this subsection for the purposes specified in this section. The Legislature may also establish for this subsection the same procedures and limitations authorized in subsection A of this section. Article 10 §6C
Exemptions for Development or Redevelopment of Unproductive Areas

The Legislature, by law, may authorize any city, town, or county to plan, finance, and carry out the development or redevelopment of areas determined to be unproductive, undeveloped, underdeveloped, or blighted. The authority of the county shall be limited to the unincorporated areas of the county. However, any city, town, or county may, by agreement, jointly plan, finance, or carry out a development plan with any other public or private entity for one or more development projects within their respective boundaries.

NOTE: Any city, town, or county may exercise the provisions of this section separately or in combination with powers granted by any other laws of Oklahoma.

Statutory Exemptions

The Oklahoma state statutes also provide for a number of exemptions. With statutory exemptions, property is exempt by reason of classification or "in lieu." Examples of property that is exempt because of classification are:

- All property of the US and property that is exempt because of treaty stipulations existing at statehood between the Indians and the US government, or by reason of federal laws in effect at statehood during the time such treaties or federal laws are in effect. In instances where a federal agency has obtained the title of a property through foreclosure, voluntary or involuntary liquidation or bankruptcy, and where the property was previously subject to ad valorem taxation, the property may continue to be assessed for ad valorem taxes if such federal agency agreed to pay such taxes.\(^\text{18}\)

\(^{18}\)West v. Okla. Tax Commission, 68 S. Ct. 1223 (1948)
All property of Oklahoma and of the counties, school districts, and municipalities of Oklahoma, including property acquired for the use of such entities according to the terms of a lease-purchase agreement. A lease-purchase agreement provides the passage of title or the release of security interest, if applicable, upon payment of all rental payments and an additional nominal amount. The lease acts as a mortgage.¹⁹

All property of any college or school that is devoted exclusively and directly to the appropriate objects of such college or school within Oklahoma and all property used exclusively for nonprofit schools and colleges.²⁰

Books, papers, furniture, and scientific or other apparatus pertaining to any institution, college, or society, and which are devoted exclusively and directly for the use of students in such an institution, college, or society for educational purposes.²¹

All fraternal orphan homes and other orphan homes.

All property used for free public libraries, free museums, public cemeteries, or free public schools.²²


²⁰Chapman v. Draughon's School of Business 287 P.2d 903 (Okla. 1955)

²¹45 Opinion, Attorney General (1945); Cox v. Dillingham 184 P.2d 976 (1947)

All property used exclusively for fraternal or religious purposes within Oklahoma. For purposes of administering the exemption and in order to determine whether a single family residential property is used exclusively and directly for fraternal or religious purposes, the fair cash value of a single family residential property in excess of $250,000 for the applicable assessment year for which an exemption is claimed shall not be exempt from taxation.\textsuperscript{23}

All property of any charitable institution organized or chartered under the laws of Oklahoma as a nonprofit or charitable institution. The net income from such property must be used exclusively within Oklahoma for charitable purposes and no part of the income may be used by a private stockholder for personal benefit. Amended 1996, 2000, 2001.

\textsuperscript{23}Oklahoma County v. Queen City Lodge 195 Okla. 131, 156 P.\textsuperscript{2}d 340 (1945); London Square Village v. Okla County 559 Okla P.\textsuperscript{2}d 1224 (1977); Oklahoma Tax Commission v. Sisters of the Sorrowful Mother 97 P.\textsuperscript{2}d 888 (1939); Board of County Commissioners of Garfield County v. Phillips University 44 Okla. 57, 289 p. 720 (1930); Immanuel Baptist Church v. Glass 497 P.\textsuperscript{2}d 757 (Okla. 1971); Attorney General Opinion 82-182.
All property of any hospital established, organized, and operated by any person, partnership, association, organization, trust, or corporation as a nonprofit and charitable hospital. The property and net income from such a hospital must be used directly, solely, and exclusively within Oklahoma for charitable purposes. No part of such income shall be used to benefit any individual, person, partner, shareholder, or stockholder. Furthermore, such hospital facilities shall be open to the public without discrimination as to race, color, or creed, and regardless of ability to pay. Such a hospital must be licensed and otherwise complies with the laws of Oklahoma regarding the licensing and regulation of hospitals.\(^ {24} \& \text{ 25} \)

All libraries and office equipment of ministers of the Gospel who are actively engaged in ministerial work in Oklahoma. These libraries and office equipment that are being used by such ministers in their ministerial work must be determined to be used exclusively for religious purposes; they must be declared to be within the meaning of the term "religious purposes" according to Article 10, Section 6 of the Oklahoma Constitution.\(^ {26} \)

\(^{24}\text{Oklahoma County v. Queen City Lodge 195 Okla. 131, 156 P.2d 340 (1945); London Square Village v. Okla County 559 Okla P.2d 1224 (1977); Oklahoma Tax Commission v. Sisters of the Sorrowful Mother 97 P.2d 888 (1939); Board of County Commissioners of Garfield County v. Phillips University 44 Okla. 57, 289 p. 720 (1930); Immanuel Baptist Church v. Glass 497 P.2d 757 (Okla. 1971); Attorney General Opinion 82-182; Payne County v. William K. Warren Medical Center 905 P.2d 824 (1995)\)

\(^{25}\text{In re Park College, 39 P.2d 105 (Okla. 1934); Tulsa County v. St. Johns Hospital 200 Okla. 176, 191 P.2d 983 (1948); 76 Attorney General Opinion 122 (1976)\)

Household goods, tools, implements, and livestock of every person maintaining a home not exceeding $100 in value or $1000 in value if Article 10, Section 6 of the Oklahoma Constitution provides for an exemption in such amount. In addition, the further sum of $200 shall be exempt from taxation on personal property to all enlisted and commissioned personnel, whether on active duty or honorably discharged, who served in the Armed Forces of the US during:

- the Spanish–American War;

- the period beginning on April 6, 1917, and ending on July 2, 1921;

- the period beginning on December 6, 1941, and ending on such date as the state of national emergency as declared by the President of the United States shall cease to exist; or

- any other future period during which a state of national emergency shall have been declared to exist by the congress or the President of the United States.

Eligible War Veterans - 4/6/17 - 11/18/18; 9/16/40 - 12/7/41; 12/7/41 - 12/13/46; 6/27/50 - 1/31/55; combat zone prior to 8/5/64; 8/5/64 prior to 5/7/75; 8/17/90 - 2/28/91; Ref. 72 O.S. 1991 § 67.13 a;b

NOTE: All widows or widowers of such enlisted or commissioned personnel who served on active duty during the above period(s) and who are bona fide residents of Oklahoma shall be entitled to this additional $200 exemption.27

2778 Attorney General Opinion 125 (1978)
• Family portraits

• All food and fuel provided in kind for the use of the family, not to exceed provisions for one year's time; all grain and forage necessary to maintain for one year the livestock used to provide food for the family. No person from whom pay is received or expected for board shall be considered a member of the family under Article 10, Section 6 of the Oklahoma Constitution. 28

• All growing crops; and 29

• All game animals, fowl and reptile, which are not being grown for food or sale and which are kept exclusively for breeding or exhibition in private grounds or public parks in Oklahoma.

Additional exemptions by classification are as follows.

**Homestead Exemptions**

Homesteads are also classified for the purpose of taxation and shall be assessed for taxation. However, homesteads are exempt from all forms of ad valorem taxation up to $1000 of their assessed valuation.

Any executor or administrator of an estate that is eligible for a homestead property exemption shall notify the County Assessor of the change in status of the homestead property if the property is not the homestead of a person who would be eligible for the exemption. 30

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29 68 O.S. 1995, §2807-3

30 Attorney General Opinion 87-103; 71-133; 75-138; 77-231; 81-255; 81-301
Additional Homestead Exemptions

In addition to the amount of the homestead exemption, an additional exemption is granted up to $1000 of the assessed valuation on each homestead of heads of households whose gross household income from all sources for the preceding calendar year did not exceed $20,000. NOTE: Amended from $10,000 gross household income SB-681 (1996) Effective January 1, 1997.

NOTE: The term “gross household income,” as used in Section 8, means the gross amount of income of every type, regardless of the source, received by all persons occupying the same household. This applies whether such income was taxable or nontaxable for federal or state income tax purposes, including:

- pensions,
- annuities,
- federal Social Security,
- unemployment payments,
- veterans’ disability compensation,
- "loss-of-time" insurance payments,
- capital gains,
- any other type of income received, excluding gifts.

The term “head of household,” means a person who, as owner or joint owner, maintains a home and furnishes his/her own support of the home, furnishings, and other material necessities.31

31 Attorney General Opinion 87-103; 71-133; 75-138; 77-231; 81-255; 81-301
Applications for Additional Homestead Exemptions

The application for an additional homestead exemption shall be made each year before March 15 or within 30 days from the taxpayer's receipt of the notice of valuation increase, whichever is later. The taxpayer should use the application form prescribed by the Oklahoma Tax Commission, which requires the taxpayer to record the amount of his/her gross income. Upon request of the County Assessor, the Oklahoma Tax Commission shall assist in verifying the correctness of the amount of the stated gross income.

No annual application is required for persons who are 65 years of age or older as of March 15 and who have previously qualified for the additional homestead exemption. Any person whose gross household income in any calendar year exceeds the amount necessary to qualify for an additional homestead exemption must notify the County Assessor and the additional exemption will not be allowed for the applicable year.

Manufacturing Facilities Exemptions

State statues, as well as the Oklahoma Constitution, provide for a qualifying manufacturing concern exemption.

A qualifying manufacturing concern may be exempt from ad valorem tax levies for a period of five years on new, expanded, or acquired manufacturing facilities, including facilities engaged in research and development. Article 10, Section 22 of the Oklahoma Constitution classifies such facilities for purposes of taxation.

The following sections are provided to define special terms and explain certain aspects of a "manufacturing facilities exemption."

Definitions of "Facility"

"Facility" and "facilities" shall mean and include the land, buildings, structures, improvements, machinery, fixtures, equipment, and other personal property used directly and exclusively in the manufacturing process.

68 O.S. 2001, §2902
Constitution 10 §6B
Constitution 10 §22
Definitions of "Research and Development"

"Research and development" shall mean activities directly related to and conducted for the purpose of discovering, enhancing, increasing, or improving future or existing products or processes or productivity.

Definitions of "Manufacturing Facilities"

"Manufacturing facilities" are defined as facilities engaged in the mechanical or chemical transformation of materials or substances into new products. These facilities include establishments as defined or classified under Division D of the latest revision of the Standard Industrial Classification (SIC) Manual, including:

- Aircraft Repair and Replacement Parts,
- Repair and replacement parts primarily involved in aircraft repair, building and rebuilding, whether or not on a factory basis.
- Retail Establishments/Publicly Regulated Facilities,
- Eating and drinking places as well as other retail establishments and publicly regulated facilities do not qualify as manufacturing facilities.

Computer Services and Data Processing,
"Manufacturing facilities" shall also include an establishment that is primarily engaged in computer services and data processing as defined under Industrial Group Numbers 7372 and 7373 of the latest revision of the SIC Manual. This establishment must derive at least 50 percent of its annual gross revenues from the sale of a product or service to an out-of-state buyer or consumer. In addition, the establishment must derive at least 80 percent of its annual gross revenues from the sale of a product or service to an out-of-state buyer or consumer, as defined under Industrial Group Number 7374 of the latest revision of the SIC Manual.
Eligibility as a Manufacturing Facility

Eligibility as a manufacturing facility shall be subject to review by the Oklahoma Tax Commission by annually filing an affidavit by the taxpayer with the Oklahoma Tax Commission stating that the facility qualifies for the exemption. All sales to the federal government shall be considered an "out-of-state buyer" in determining whether annual gross revenues are derived from sales to out-of-state buyers.

Exemption for New, Acquired, or Expanded Manufacturing Facilities

The exemption provided for in Article 10, Section 6B of the Oklahoma Constitution applies to new or acquired manufacturing facilities and to the expansion of existing facilities on the same site. Any exemption for expansion of existing facilities is limited to the amount of the increase in ad valorem taxes due to the expansion.

Exemption for Equipment

Also, any application for exemption for equipment used in the manufacturing process for facilities that may qualify for a manufacturing exemption will be granted only if the equipment results in a net increase in the number of full-time equivalent employees;

- in the year the exemption is initially granted, and in;
- each of the four subsequent years only if the level of new employees is maintained or increased in the subsequent year.

Calculation of Employees

Calculation of the number of full-time equivalent employees of the facility in the year that the exemption is initially granted and in each of the four subsequent years is necessary only if the level of new employees is maintained or increased in the subsequent years. This calculation shall be made in the same manner as required under Title 68 O.S. §2357.4 for investment
tax credit. (Previous fourth quarter to current fourth quarter.)

**Application for a Manufacturer's Exemption**

Any person, firm, or corporation claiming a manufacturer's exemption shall file each year for which the exemption is claimed. An application must be completed with the County Assessor of the county where the new, expanded, or acquired facility is located. This application must be on a form prescribed by the Oklahoma Tax Commission, and must be filed:

- **before March 15** of each year for which the company wants the exemption, OR
- within 30 days from receipt of the notice of valuation increase, whichever is later.

If completion of the facility/facilities will occur after January 1 of a given year, then the facility may apply to claim the exemption for that year. If the facility qualifies for the exemption, then the exemption is granted for that entire year and shall apply to the ad valorem valuation as of January 1 of that year. For applicants who qualify, the application shall include a copy of the affidavit and any other information required to be filed with the Oklahoma Tax Commission.

The application will be examined by the County Assessor and approved or rejected by him/her in the same manner that claims for homestead exemptions are approved or rejected. The taxpayer's right for review and appeal to the County Board of Equalization is also subject to the same requirements as the review and appeals for homestead exemption claims.

The approved application is then sent to the Oklahoma Tax Commission no later than June 15th.

**Rural Water or Sewer District Exemptions**

All property, both real and personal, of any rural water or sewer district as defined in the "Rural Water and Sewer Districts
Act\textsuperscript{32} must be registered and licensed each year for a fee of $1. The same applies for rural water or sewer districts that are incorporated as nonprofit corporations.\textsuperscript{33} All of these districts shall also be exempt from sales and use taxes.

**Personal Property Exemptions for the Heads of Households**

The following sections are provided to define special terms and explain certain aspects of personal property exemptions for the heads of households.

**Definition of "Gross Household Income"**

"Gross household income" means the gross amount of income of every type, regardless of the source, received by all persons occupying the same household. The following items should be included in computing gross household income, regardless of whether the income was taxable or nontaxable for federal or state income tax purposes:

- Pensions
- Annuities
- Federal Social Security
- Unemployment payments
- Veterans' disability compensation
- Public assistance payments
- Alimony

\textsuperscript{32}Chapter 266, Oklahoma Session Laws, 1963 and amended Chapter 18, Title 82, O.S. Supp. 1969

\textsuperscript{33}Chapter 13, Oklahoma Session Laws 1968 and Chapter 19, Title 18, O.S. Supp. 1969
• Support money
• Workers’ compensation
• Loss-of-time insurance payments
• Capital gains
• Any other type of income received, excluding gifts

**Definition of "Head of Household"**

"Head of household" means a person who, as owner or joint owner, maintains a home and furnishes the support for the home, furnishings, and other material necessities.

**Eligibility for "Personal Property for Heads of Households Residing in a Manufactured Home" Exemption**

Beginning with the year 1990 and for each subsequent year, any person 62 years of age or older;

• who is the head of a household,
• who is a resident of and lives in Oklahoma during the entire preceding calendar year,
• whose gross household income for the preceding year did not exceed $10,000, and
• who owns and resides in a manufactured home that is located on land not owned by the owner of the manufactured home,

may receive an exemption of $2,000 of assessed value on the manufactured home.
Application for a Personal Property Tax Exemption

The application for a Personal Property Tax Exemption shall be made each year before March 15, or within 30 days from the taxpayer’s receipt of the notice of valuation increase, whichever is later. Also, the application must be on the form prescribed by the Oklahoma Tax Commission, which requires the taxpayer to certify as to the amount of gross income. Upon request of the County Assessor, the Tax Commission shall assist in verifying the correctness of the amount of the stated gross income. The form must state in bold letters that it must be returned to the County Assessor of the county in which the manufactured home is located.

No annual application is required for persons who are 65 years of age or older as of March 15 and who have previously qualified for the personal property exemption for the heads of households. Any person whose gross household income in any calendar year exceeds the amount necessary to qualify for this type of exemption must notify the County Assessor and the additional exemption will not be allowed for the applicable year.

Executor or Administrator of an Estate

Any executor or administrator of an estate within which is included a homestead property exemption shall notify the County Assessor of the change in status of the homestead property if the property is not the homestead of a person who would be eligible for the exemption.

In–Lieu Taxes

This section provides the following fees or taxes levied as an "in–lieu" tax, or a tax that is levied in place of an ad valorem tax. An in–lieu tax can be levied in lieu of a real property tax, personal property tax, or both.

- Registration fees and taxes imposed upon aircraft

- Registration fees for motor

68 O.S. 1996, §2906

68 O.S. 2001, §251, Title 3

68 O.S. 2001 §1103, Title 47
- Fee imposed upon transfers of used vehicles in lieu of the ad valorem tax upon inventories of used motor vehicles

  68 O.S. 2001 §1137.1, Title 47

- Registration and license fees imposed upon vessels and motors pursuant to the Oklahoma Vessel and Motor Registration Act

  68 O.S. 2001 §4001, Title 68

- Taxes levied upon the gross production of substances

  68 O.S. 2001 §1020, Title 68

- Tax imposed upon gross receipts

  68 O.S. 2001 §1803, Title 68

- Tax imposed upon certain textile products

  68 O.S. 2001 §2110, Title 68

- Tax imposed upon certain freight cars

  68 O.S. 2001 §2202, Title 68

- Tax imposed on certain parts of the inventories, both new and used items, owned and/or possessed for sale by retailers of farm tractors and other equipment

  68 O.S. 2001 §5401-5404, Title 68

- Tax imposed upon inventories of new vehicles and certain vessels

  68 O.S. 2001 §5301, Title 68

- Such other fees or taxes as may be expressly provided by law to be in lieu of ad valorem taxation
FEES OR TAXES TO BE LEVIED IN LIEU OF AD VALOREM TAX

Exempts the property of Oklahoma Rural Electric Cooperative Associations. Out of state rural electric cooperatives may be exempt per 18 O.S. Sec 437.23.

Exempts certain buildings, machinery, and equipment of certain manufactories using Lint, Cotton, Wool or Synthetic Fibers in the raw state.

Farm implement dealers may purchase revenue stamps to affix to bills of sale in-lieu of paying ad valorem taxes on inventory.

Provides that the Oklahoma Wildlife Conservation Commission shall pay an in-lieu tax on lands acquired under the act.

Aircraft are not subject to local assessment.

Provides that the Oklahoma Wildlife Conservation Commission shall pay an in lieu tax on lands acquired under this act.

Provides for an in lieu tax for licensed vehicles.

Industrial trust property exempt if property is used as authorized (Property of industrial trust is taxable if used as residential, wholesale or retail purposes.

All railroad freight cars are exempt from ad valorem taxes in that they are subject to an in lieu tax.

Provides for an in lieu tax on personal property of banks and credit unions - real property of such institutions remains subject to ad valorem taxes.

Title 68 O.S. (1971) § 2433 does not exempt or provide for in lieu taxation of savings and loan associations.

68 O.S. 2001, Article 18
18 O.S. 2001, §437.25

68 O.S. 2001, Article 20

68 O.S. 2001, §5401-5404

29 O.S. 2001, §4-132

47 O.S. 2001, §2805

11 O.S. 2001, §38-112(B)

60 O.S. 2001, §176-180.55 & 651-664

68 O.S. 2001, §2201

68 O.S. 2001, §2370
Subsection A, B(1) & B(2)

Attorney General Opinion 79-18
The following fees or taxes levied by the provisions of the Oklahoma Statutes shall be in lieu of ad valorem tax, whether in lieu of real property tax, personal property tax, or both as provided by law.

1. The registration fees and taxes imposed upon aircraft by Section 251 et seq. of Title 3 of the Oklahoma Statutes;
2. Registration fees for motor vehicles as provided in Section 1103 of Title 47 of the Oklahoma Statutes, except as otherwise specifically provided;
3. The fee imposed upon transfers of used vehicles in lieu of the ad valorem tax upon inventories of used motor vehicles by Section 1137.1 of Title 47 of the Oklahoma Statutes;
4. The registration and license fees imposed upon vessels and motors in excess of ten horsepower pursuant to the Oklahoma Vessel and Motor Registration Act, Section 4001 et seq. of Title 63 of the Oklahoma Statutes;
5. The taxes levied upon the gross production of substances pursuant to Section 1001 of this title;
6. The taxes levied upon the gross production of substances pursuant to Section 1020 of this title;
7. The tax imposed upon gross receipts pursuant to Section 1803 of this title;
8. The tax imposed upon certain textile products pursuant to Section 2001 of this title;
9. The tax imposed upon certain freight cars pursuant to Section 2202 of this title;
10. The tax imposed on certain parts of the inventories, both new and used items, owned and/or possessed for sale by retailers of farm tractors and other equipment pursuant to Sections 1 through 4 of this act;\(^{34}\)

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11. The tax imposed upon inventories of new vehicles and certain vessels pursuant to Section 5301 of this title; and
12. Such other fees or taxes as may be expressly provided by law to be in lieu of ad valorem taxation.

Lists Sixteen subsections delineating specific items as exempt from ad valorem taxes. See statutes for information.

68 O.S. 2001 §2887

MISCELLANEOUS OKLAHOMA STATUTES

Exempts property of urban renewal authorities. However, improvements placed upon land leased by authority to non-government entities are subject to ad valorem taxes.

68 O.S. 2001 §38-112(B)

Establishes and defines rural and urban homesteads.

68 O.S. 2001 §2888

Establishes homestead exemption.

68 O.S. 2001 §2889

Provides for additional homestead exemption

68 O.S. 2001 §2890

Ad valorem exemption for qualifying manufacturing concerns - not to exceed five (5) years.

68 O.S. 2001 §2902

Ad valorem tax exemption for rural water districts

68 O.S. 2001 §2903

"Circuit Breaker" tax relief entitles disabled person or persons 65 years of age or older who is head of household and domiciled for entire year in state and whose household income does not exceed $10,000.00 to file claim under 68 O.S. §2905 and 2906 for ad valorem tax relief.

68 O.S. 2001 §2904-2911

Personal property section shall notify the county assessor of the change in status of the homestead property if such property is not the homestead of a person who would be eligible for the exemption provided by this section.

68 O.S. 2001 §2949

D. As used in this section:

1. "Gross household income" means the gross amount of income of every type, regardless of
the source, received by all persons occupying the same household, whether such income was taxable or nontaxable for federal or state income tax purposes, including pensions, annuities, federal Social Security, unemployment payments, veterans' disability compensation, public assistance payments, alimony, support money, workers' compensation, loss-of-time insurance payments, capital gains and any other type of income received, and excluding gifts; and

2. "Head of household" means a person who as owner or joint owner maintains a home and furnishes the support for said home, furnishings, and other material necessities.

Property of Oklahoma Educational Television Authority (OETA) is exempt from ad valorem taxes.

Veteran's & surviving spouses of veterans who served in military during certain periods - allowed exemptions.

70 O.S. 2001 §23-116
72 O.S. 2001 §67.13
A.G. Opinion 78-125
See 68 O.S. 2001 §2887 (12)

FEDERAL STATUTE

Civil Relief Act of 1940 "Soldiers and Sailors Relief Act" holds all civil actions in abeyance while person is in military service.

Title 50 § App 560 U.S.C.A.