

**TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 10. AD VALOREM**

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking.

PROPOSED RULES:

CHAPTER 10. AD VALOREM [AMENDED]

SUMMARY:

As part of the Commission's ongoing review of its rules, proposed amendments to the existing Ad Valorem rules have been made.

Proposed amendments to **Subchapter 4**, "*Annual Valuation Mandate*", have been made to clarify policy and procedures regarding the various aspects of the annual valuation process and to add and update statutory and other references.

Proposed amendments to **Subchapter 7**, "*Manufacturing Facilities*", and **Subchapter 15**, "*Freeport Exemption*" have been made consistent with the passage of State Question 741 at election held November 4, 2008 relating to the prohibition against granting ad valorem exemptions for any years prior to the filing of the original exemption application.

Proposed amendments to **Subchapter 9**, "*Manufactured Homes*", have been made to implement statutory changes as they relate to manufactured homes pursuant to Senate Bill 1770 which eliminated the October real property tax certificate sale.

Proposed amendments to **Subchapter 14**, "*Full Fair Cash Value Exemption for Disabled Veterans in Receipt of Compensation at the One Hundred Percent Rate*" have been made in accordance with the passage of State Question 735 at election held November 4, 2008 creating an exemption from personal property tax for qualifying disabled veterans.

Other amendments may be made for clarification purposes, to delete and update obsolete references and to improve readability.

AUTHORITY:

68 O.S. §§ 203 and 2902(H); Oklahoma Tax Commission

COMMENT PERIOD:

Persons wishing to make written submissions may do so by 4:30 p.m. February 17, 2009, to the Oklahoma Tax Commission, Tax Policy Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194. Those wishing to make oral comments at the public hearing should request placement on the docket well in advance of the hearing date, by calling Pat McDonald at (405) 521-3133

PUBLIC HEARING:

A public hearing will be held to provide an additional means by which suggestions may be offered on the content of the proposed rules. Time, Date and Place of the hearing is as follows: February 18, 2009 at 3:00 p.m. in the 4th floor hearing room at the Oklahoma Tax Commission, 2501 Lincoln Blvd., Oklahoma City, Oklahoma. In order to facilitate entry into the building, those wishing to appear should contact Pat Mc Donald at (405) 521-3133 at least 24 hours prior to the hearing date to complete their visitor pre-registration. Entry to the M.C. Connors building must be made through the doors located on the east side of the building. In order to gain access to the 4th floor hearing room, attendees must register at the information desk in the lobby by presenting a driver's license or other photo identification. A name badge and floor access card will be issued once registration is completed.

Time limitations may be imposed on oral presentations to ensure that all persons who have filed written requests for placement on the docket will have an opportunity to speak.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Although nothing in this rulemaking action is expected to adversely impact small business, the Oklahoma Tax Commission (OTC) requests that any business entity affected by these rules provide the OTC, within the comment period, in dollar amounts, if possible, information on any increase in direct costs, such as fees, and indirect costs, such as those associated with reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity **due to** compliance with the proposed Rules.

COPIES OF PROPOSED RULES:

Interested persons may inspect proposed rules at the offices of the Oklahoma Tax Commission, Tax Policy Division, 5th floor, M. C. Connors Building, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma. Copies of proposed rules may be obtained without charge from the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194.

RULE IMPACT STATEMENT:

A Rule Impact Statement will be prepared and will be available for review from and after January 30, 2009, from the same source listed above for obtaining copies of proposed rules.

CONTACT PERSON:

Lisa R. Haws, Liaison. Phone: 405-521-3133; FAX: 405-522-0063; Email: lhaws@oktax.state.ok.us

710:10-4-8. Determination of compliance with annual valuation requirements; certification to the State Board of Equalization

Data and other information as to each component of the appraisal process shall be gathered, reviewed, and analyzed, for each county, for the previous year after any adjustments by the county assessor, county board of equalization, and county board of tax roll corrections, in order to make various compliance determinations. The non-exclusive factors listed in (1) through (11) of this Section describe the basis and methodologies which the Commission shall utilize in its compliance review of the various counties, and from which certification of annual valuation may be made to the State Board of Equalization.

- (1) Review of the county's median appraisal / sales price ratio overall and by property class.
- (2) Review of the county's coefficient of dispersion (COD), overall, and by property class.
- (3) Review of standard statistical measures defined and described in the *International Association of Assessing Officers (IAAO)* most recent edition, textbooks, reference materials, and coursework or comparable.
- (4) Determination of compliance, based upon review of the county's visual inspection plan and any amendments to the plan on file with the Commission.
 - (A) Review of the inspection area schedule contained in the current visual inspection plan on file with the Ad Valorem Division of the Commission, to determine whether adequate progress is being made.
 - (B) Review of area outside current year visual inspection area, to determine whether annual valuation county-wide is being performed. [See: 68 O.S. § 2829(C)]
- (5) Review of all property subject to value limitation, to determine compliance with Constitutional, statutory, and administrative directives.
- (6) Determination of compliance, based upon a comprehensive review and comparison of previously qualified prior year sales with actual fair cash value at time of sale. Analysis will be conducted in accordance with IAAO Standards on Ratio Studies, 1999 edition. Ref: Sections 5.3 and 10.7.
 - (A) Median/COD comparison between the current sales and between the previous actual fair cash value.
 - (B) Review of the numbers, types, nature, and location of properties changed overall, for the visual inspection area, and for the remainder of the county.
 - (C) Review of the date, numbers, type and nature of increases or decreases to actual fair cash value on all property.
- (7) Determination of compliance, based upon a review of samples of agricultural, business, and household other personal property forms, renditions and valuations. (~~where assessment of household personal property has not been abolished pursuant to Article X, Section 6(b) of the Oklahoma Constitution~~).
- (8) Findings upon review of personal property samples for determination of whether annual and uniform actual fair cash value is being applied on all personal property classes and types. [See: 68 O.S § 2807; 2817; 2829 and 2844.]
- (9) Findings based upon review of CAMA system to determine whether the systematic generation and maintenance of values and ongoing sales file maintenance and analysis mandated by state statute is being utilized in a state-approved system of computer assisted mass appraisal. [See: 68 O.S. § 2829]
- (10) Findings based upon review of Oklahoma Tax Commission and State Board of Equalization approved agricultural use value methodology to determine if the county is utilizing

the most current approved dollar per point and the use value methodology specified in 68 O.S. § 2817(C) for valuation of agricultural land and non-residential improvements.

(11) Findings based upon review to determine if the county is monitoring agricultural land use constant with 68 O.S. § 2820 on an annual basis to determine if the actual use has changed.

710:10-4-9. Findings of the annual valuation audit

(a) The annual valuation audit shall be based upon the factors contained in 710:10-4-8.

(b) Each county shall be given a score based upon the degree of compliance with each factor listed. The county shall be required to obtain a score of seventy percent (70%) in order to be certified as conducting annual valuation pursuant to 68 O.S. §§ 2817, 2829, and 2830(B).

(c) The Oklahoma Tax Commission will recommend to the State Board of Equalization upon review of the criteria set forth in this subsection that the county is in compliance with the annual valuation requirement by achieving a score of seventy (70) percent.

(1) The county has complied with the State Constitutional provisions regarding assessment percentages. [See: Article 10, Section 8A, Okla. Const]

~~(2) The county's appraisal procedures are not increasing the taxable value of capped property in excess of the five percent cap unless the property is improved or transferred. properly maintaining capped values within the five percent (5%) increase allowed unless the property is improved or transferred, and are not increasing the taxable value subject to the Constitutional Senior Valuation Limitation. [See: Article 10, Section 8C Okla. Const.]~~

~~(3) The county's appraisal procedures are not increasing the taxable value of property subject to the Constitutional Senior Valuation limitation unless the property is improved or transferred. [See: Article 10, Section 8C, Okla. Const.]~~

~~(4)~~ (3) Uncapped property is valued at its actual fair cash value, based upon its highest and best use for which used, pursuant to Title 68 of the Oklahoma Statutes and Article 10, Section 8 of the Oklahoma Constitution.

~~(5)~~ (4) The county is applying the same assessment percentage for all locally valued personal property.

~~(6) The county is properly applying Article 10, Sections 8, 8B, and 8C, of the Oklahoma Constitution and is implementing those provisions in a consistent manner, using the approved forms.~~

~~(7)~~ (5) The county is conducting its visual inspection program as described in its approved visual inspection plan.

~~(8)~~ (6) The county is conducting maintenance activity, i.e. addition of new construction and add-ons, deletions, demolition, fire/storm damage.

~~(9)~~ (7) The county is making adjustments as needed to sold and unsold property to maintain actual fair cash value countywide on an annual basis. See: OAC 710:10-4-8-6.

~~(10)~~ (8) The county is using appropriate agricultural use value methodology for land and non-residential improvements, approved by the Oklahoma Tax Commission Ad Valorem Division and State Board of Equalization for valuation of agricultural classified properties.

(9) The county is exclusively using the current Oklahoma Tax Commission approved forms for all taxpayer renditions of personal property. [See: 68 O.S. § 2835.

(10) The county is complying with all personal property classifications, annual valuation and assessment procedures. [See: 68 O.S. § 2817(A)(F); 2829; 2844(A)(B); A.G. Op. 00-23]

(d) If the county score is less than seventy percent (70%), the Oklahoma Tax Commission shall certify that the county is not in compliance with the annual valuation requirements and shall

recommend to the State Board of Equalization the appropriate category of non-compliance, as required by 68 O.S. § 2830(B).

(e) The Oklahoma Tax Commission may notify the county assessor of any areas of improvements or concerns from the results of the Annual Valuation Audit. The Commission may provide the county with statistical data and other information that the Commission determines may be beneficial to the advancement of the annual valuation program.

710:10-7-6. Beginning date of exemption; failure to claim

The five-year period of allowable ad valorem manufacturing exemption for any qualifying manufacturing facility property shall begin on January 1 following the initial qualifying use of the property in the manufacturing process as provided by law. Failure to claim an exemption for which a qualifying manufacturing concern may be eligible shall not toll or extend the five-year period of allowable exemption. Any remaining eligibility for previously acquired assets may be claimed for the following year based on the initial year of acquisition. Oklahoma Constitution Article 10 Section 22A prohibits the filing of an exemption application for any subsequent year(s) beginning January 1, 2009. The application must be made in the same year as the exemption is requested.

710:10-9-22. Collection of taxes on repossessed manufactured homes

(a) **County treasurer's authority to collect taxes on repossessed manufactured homes.** The Ad Valorem Tax Code allows the county treasurer to collect taxes due on a repossessed manufactured home separate from the land and improvement for the following years:

- (1) The current assessment year; and
- (2) The previous tax years.

(b) **Collection of taxes by the county treasurer for the current year.** The county treasurer is authorized to collect taxes due for the current assessment year from a lawful reposessor of a manufactured home who holds a perfected security interest based on the value of the manufactured home apart from land and improvements when valued and assessed as real estate. The taxes due for the current year shall be calculated as follows:

- (1) The assessed value of the manufactured home apart from land and improvements will be calculated;
- (2) The homestead exemption will be calculated as determined in Section 710:10-9-10, if applicable.
- (3) The mill levy for the previous year will be applied to determine the amount of taxes due for the current year if the current year's mill levy is not calculated when the application for a Manufactured Home Certificate 936 (OTC Form 936) is made.
- (4) The calculation of the current year's taxes for a manufactured home using the current mill levy will be substantially the same as outlined in paragraphs (1) through (3) of this subsection.

(c) **Collection of previous years' taxes by county treasurer ~~before issuance of a tax certificate.~~** The county treasurer is authorized to collect taxes on the manufactured home apart from the land and improvements when valued and assessed for a previous year. This does not relieve the treasurer of the duty to assess any interest and penalties due on the portion of taxes allocated to the manufactured home.

(d) **Determination of taxes after issuance of a ~~tax certificate~~ resale tax deed.**

(1) The county treasurer shall issue a ~~tax certificate~~ resale deed to a successful bidder at an original tax sale if the following conditions are met:

- (A) The ad valorem taxes are unpaid as of January first of the subsequent tax year;
- (B) The county treasurer shall give notice of the sale of tax lien for delinquent taxes, by publication thereof once a week for the two (2) consecutive weeks immediately prior to the third Friday in September ~~preceding the sale~~ following the year the taxes were first due and payable, in some newspaper in the county, to be designated by the county treasurer. The sale will ~~begin the first Monday in October;~~ be held on the second Monday of June each year.
- (C) If a manufactured home is involved in the original sale, the notice of sale published by the county treasurer pursuant to (B) of this paragraph shall contain the following language (See: 68 O.S. §3106): **"The sale hereby advertised involves a manufactured home which may be subject to the right of a secured party to repossess. A holder of a perfected security interest in such manufactured home may be able to pay ad valorem taxes based upon the value of the manufactured home apart from real property. If a secured party exercises this right, the holder of the tax sale certificate will be refunded the amount of taxes paid upon the value of the manufactured home."**
- (D) The record owner as reflected by the tax rolls will be given notice by certified mail of the original sale; The county treasurer's office shall give notice of the sale stating the amount of delinquent taxes owed and informing the owner that the subject property will be sold as provided for in Section 3105 of title 68 if the delinquent taxes are not paid and showing the legal description of the property being sold.
- ~~(E) The original sale is held on the first Monday in October between 9:00 a.m. and 4:00 p.m. by the county treasurer;~~
- ~~(F)~~ (E) The person ~~bidding~~ redeeming on the property pays the full amount of the taxes, penalty, interest and costs due and unpaid. If there is no successful bidder, the county acquires all the rights both legal and equitable that any other purchaser could acquire by reason of said purchase. A person may acquire the county's legal and equitable right in the property by paying to the county treasurer the amount of all taxes, penalties, interest, cost of sale and transfer. Thereupon, the county treasurer will assign and deliver a ~~certificate of assignment~~ resale tax deed to the purchaser. The county's right to the tax ~~certificate deed~~ is subject to a holder of a perfected security interest right to redeem the manufactured home for the sale by paying a pro rata sales of the taxes, interest, penalties and cost due and unpaid.
- (2) The county treasurer is authorized to prorate the payment of taxes, interest, penalties and cost due and unpaid for a holder of a perfected security interest exercising his right to redeem a manufactured home apart by the land and other improvements (See: 68 O.S. § 3105; 3105.1; 3106).
- (3) The county treasurer is authorized to collect taxes, interest, penalties and cost from a person redeeming a tax certificate from a successful bidder, a purchaser of a county certificate or the certificate in the name of the county.
- (4) Any person holding a tax lien pursuant to 68 O.S. §§ 3101 to 3125 prior to April 28, 2008 shall be authorized to continue the tax lien or tax certificate.

[Source: Amended at 12 Ok Reg 2603, eff 6-26-95; Amended at 19 Ok Reg 1205, eff 5-11-02]

SUBCHAPTER 14. ~~FULL FAIR CASH VALUE EXEMPTION FOR~~ DISABLED VETERANS IN RECEIPT OF COMPENSATION AT THE ONE HUNDRED PERCENT RATE

710:10-14-1. General provisions

(a) The procedures and requirements set out in this Subchapter shall be used to implement the exemption of the full fair cash value for homestead property and household personal property of qualified owners for ad valorem purposes.

(b) The "one hundred percent disabled veterans exemption" refers to the implementation of the constitutional ~~amendment~~ amendments added to the Oklahoma Constitution, Article 10, § 8E, by State Question 715, ~~and is~~ effective January 1, 2006 and Article 10, § 8D, by State Question 735, effective January 1, 2009. The amendment ~~amendments~~ directs direct county assessors to exempt the total amount of the actual fair cash value of the homestead real property and household personal property of any qualified person who has made proper application. The applicant's real property must be a valid homestead property, with evidence of a homestead exemption, or eligible for homestead exemption. As with any homestead-based exemption, the general statutes governing homestead exemption qualification apply to the one hundred percent disabled veterans exemption. Only one homestead, and by extension, only one exemption, is permitted in any one year, per applicant. The exemption applies only to owner-occupied homestead property and may not be applied to any non-homestead property. [See: 68 O.S. §§ 2888, 2889, 2890, 2893]

710:10-15-2. Application

(a) In order to be eligible for the "Freeport Exemption" the owner or owner's agent must apply at the county assessor's office in the county where the property was located on the assessment date of January 1.

(b) The initial and any subsequent applications shall be made on Oklahoma Tax Commission Form 901-F, latest revision. Applications on non-approved Tax Commission forms or other submissions shall not be accepted by the county assessor.

(c) Applications shall be filed during each year in which the tax is due, on or before March 15 or within thirty (30) days from and after the receipt of a notice of valuation increase, whichever is later.

(d) Claims for previous years shall be declared null and void by the county assessor.

(e) Eligibility for the "Freeport Exemption" shall be established by annually filing an application for exemption using Oklahoma Tax Commission Form 901-F latest revision, on or before March 15 or within thirty (30) days from the receipt of a notice of valuation increase. [See: 68 O.S. § 2902.2]

(f) Effective January 1, 2009, the application must be made in the same year as the exemption is requested. The Oklahoma Constitution Article 10 Section 22A prohibits the filing of any exemption application in a subsequent year.