

# 64th Annual Educational Conference For Assessing Officers

Tulsa, Oklahoma  
August 6, 2008

## "Exempt Property"

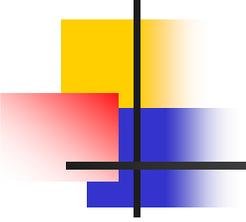
**Kenny Chuculate**

Ad Valorem Division  
Oklahoma Tax Commission

**Leisa Weintraub**

Tulsa County  
Assessor's Office



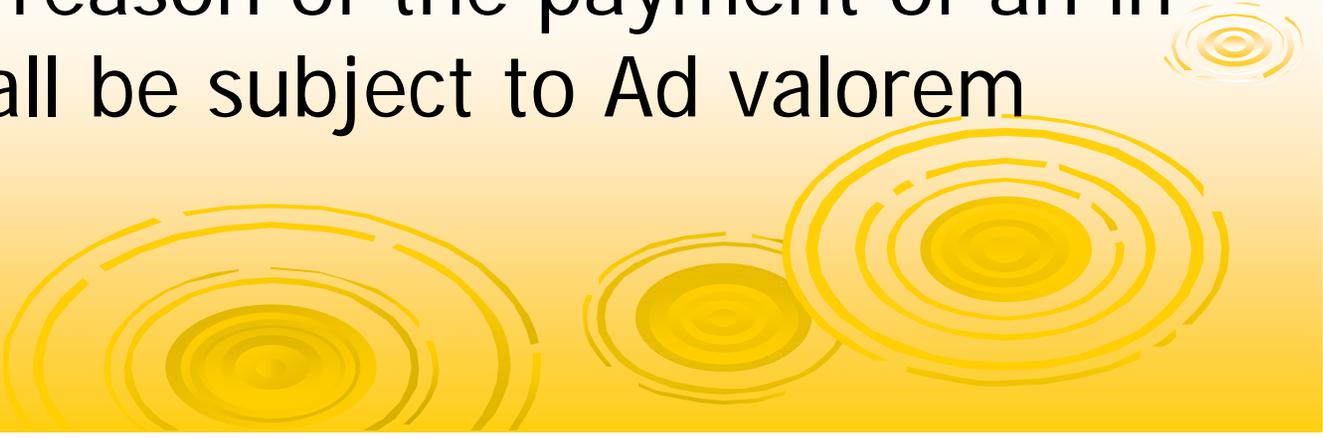


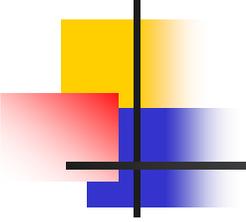
# When To Exempt

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- Title 68 O.S. §2804:

All Real and Personal Property, *except that which is specifically exempt by law*, and except that which is relieved of Ad valorem taxation by reason of the payment of an in lieu tax, shall be subject to Ad valorem taxation.





# Ad Valorem Exemptions

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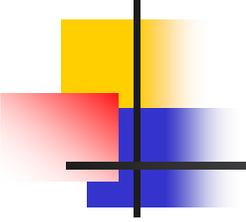
- Constitutional Provision:

*Oklahoma Constitution Article X, Section 6*

- Statutory Provision:

*Oklahoma Statutes, Title 68, Section 2887*



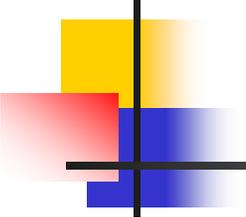


# Challenge For Assessors

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Determine taxable status of property:

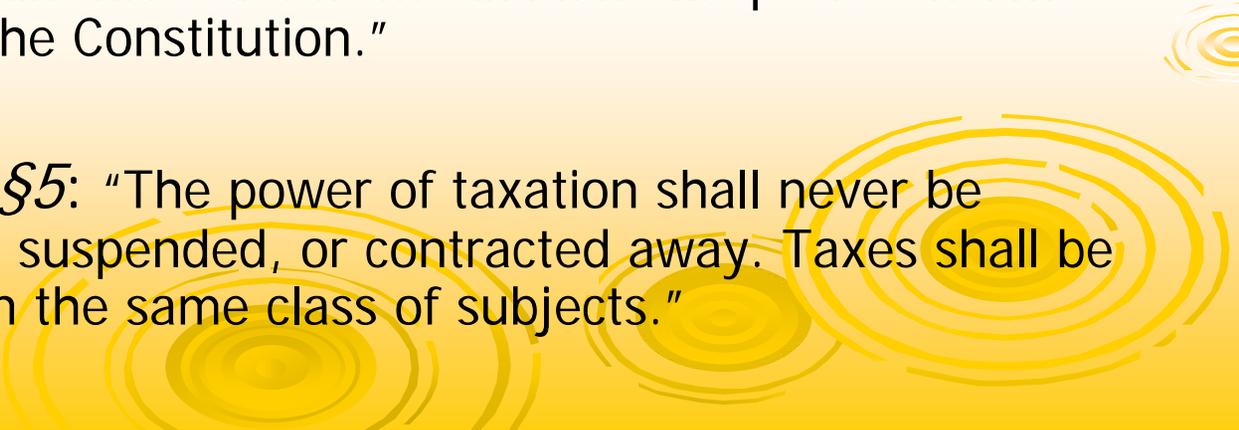
- ✓ *Who owns the property?*
  - ✓ *What is the property being used for?*
  - ✓ *To what purpose is the property devoted and dedicated?*
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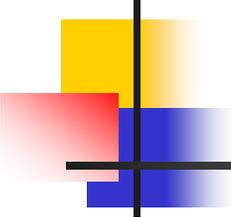


# Authority for Oklahoma Ad Valorem Exemptions

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## 1. Constitution – Guaranteed Exemptions

- *Article X, §6: Property Exempt from Taxation*
    - Ownership
    - Use
    - Exclusive Use
  
  - *Article V, §50: “Legislature shall pass no law exempting any property within this State from taxation except as otherwise provided in the Constitution.”*
  
  - *Article X, §5: “The power of taxation shall never be surrendered, suspended, or contracted away. Taxes shall be uniform upon the same class of subjects.”*
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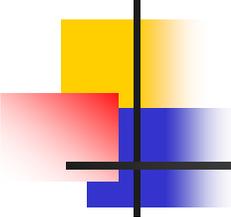


# Authority for Oklahoma Ad Valorem Exemptions (cont'd)

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## Constitutional Exemptions –

- *A self-executing constitutional provision is operative without any action from the Legislature (no supplemental or enabling legislation needed).*
  - *The Legislature cannot qualify, curtail or annul any constitutional tax exemption.*
  - *The Legislature cannot grant exemptions from taxation not recognized by the Constitution, nor enlarge exemptions recognized by the Constitution.*
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# Authority for Oklahoma Ad Valorem Exemptions (cont'd)

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## 2. Statutes

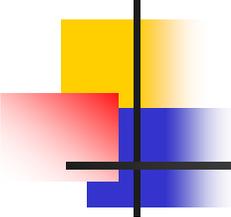
- *Title 68 – Ad Valorem Tax Code*

## 3. Court Decisions

- *District Court : binding only in that court case*
  - *Appellate Court : state-wide impact*
    - *The ultimate responsibility for interpretation of the law of Oklahoma is borne by the Supreme Court*
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# Authority for Oklahoma Ad Valorem Exemptions (cont'd)

4. **Attorney General Opinion:** *state-wide impact*
  - *An Opinion is binding upon public officials affected by it until a court of competent jurisdiction relieves them of the burden of compliance*
  - *An Opinion that a statute is unconstitutional is advisory only and not binding upon state officers until so determined by a court.*
5. **District Attorney Advice or Opinion:** *binding only in that county*
6. **Oklahoma Tax Commission Rules:** *state-wide impact*

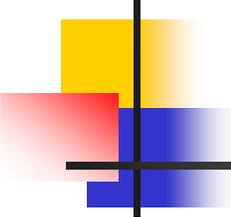


## And the Exemption goes to....

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- **All property of:**

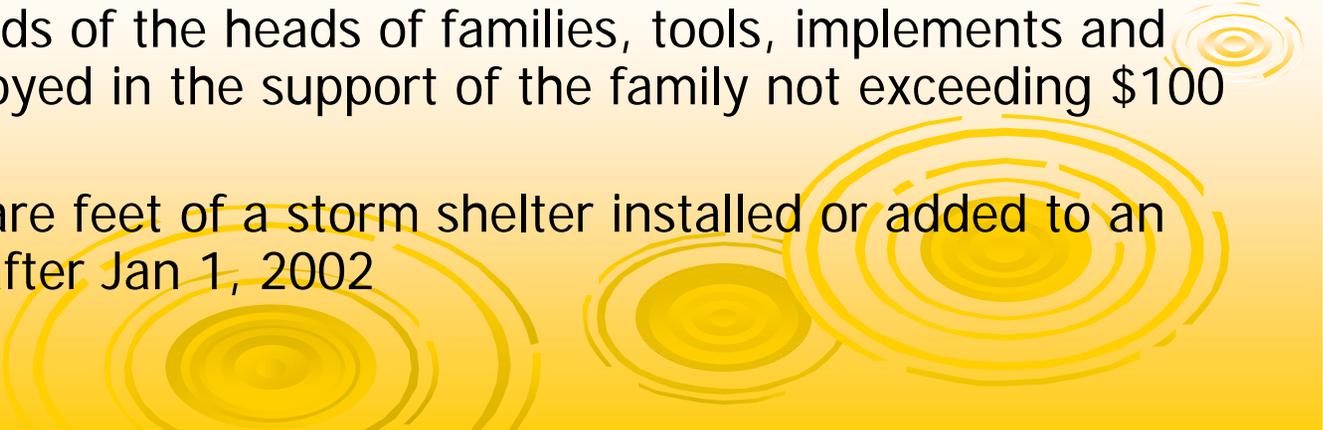
- The United States
    - If a Federal Agency has obtained title to previously taxed property through a foreclosure action, the property may continue to be assessed ad valorem if the agency has *agreed* to pay such taxes.
  - Certain Indian Trust Property
  - The State of Oklahoma
  - Counties in this State
  - Municipalities in this State
  - School Districts
  - Property acquired by the above entities (State, County, City, and School Districts) pursuant to terms of a lease-purchase agreement  
(Blue denotes an exemption that appears in 68 O.S. §2887 but not in the Constitution)
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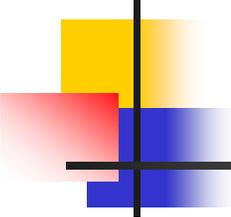


## And the Exemption goes to.... cont'd

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### □ Specifically Exempted:

- Murrow Indian Orphan Home (Coal County)
  - Whitaker Orphan Home (Mayes County)
  - All property exempt by reason of treaty stipulations between U.S. and Indians or by federal laws
  - All fraternal orphan homes or other orphan homes together with their charitable funds
  - All growing crops
  - Household goods of the heads of families, tools, implements and livestock employed in the support of the family not exceeding \$100 in value
  - Up to 100 square feet of a storm shelter installed or added to an improvement after Jan 1, 2002
- 



## And the Exemption goes to.... cont'd

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### ❑ Specifically Exempted:

- Personal Property up to \$200 for all Veterans who served in the Armed Forces during the periods of time as set forth in the statute
- Family Portraits
- All food and fuel provided in kind for the use of the family not to exceed provisions for one (1) year's time
- All game animals, fowl and reptile which are not being grown for food or sale and must be for propagation or exhibition in Oklahoma

(**Blue** denotes an exemption that appears in 68 O.S. §2887 but not in the Constitution)



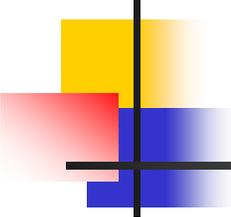
# And the Exemption goes to.... cont'd

## □ Property used for:

- Free Public Libraries
- Free Museums
- Public Cemeteries
- Free Public Schools



(Blue denotes an exemption that appears in 68 O.S. §2887 but not in the Constitution)



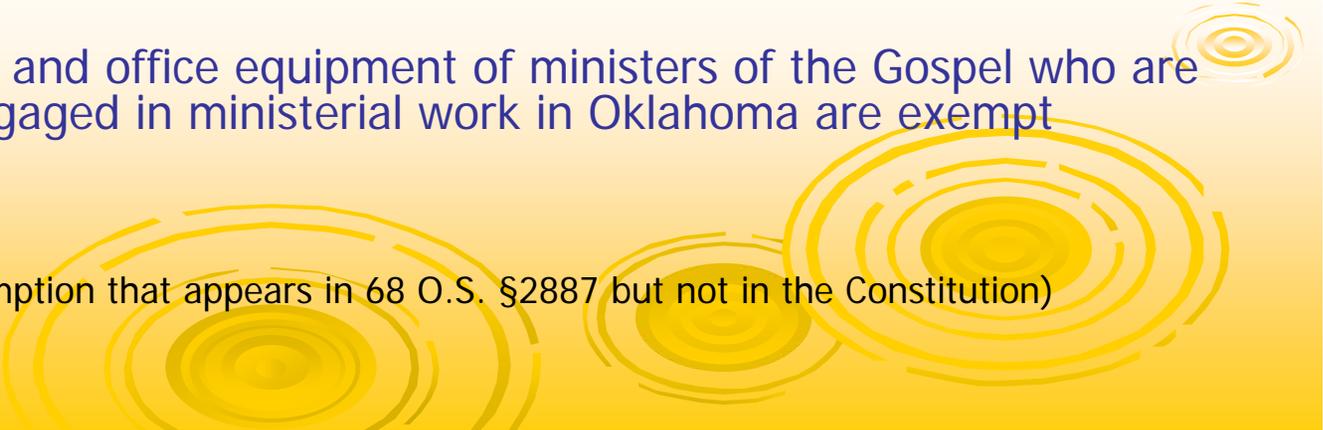
## And the Exemption goes to.... cont'd

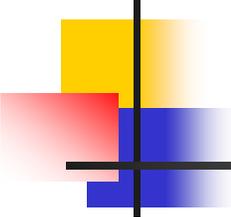
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### □ Property used *exclusively (and directly)* for:

- Non-profit schools and colleges
- Religious purposes
  - The FCV of a single family residential property that is used exclusively and directly for... religious purposes is exempt up to \$250,000
  - All libraries and office equipment of ministers of the Gospel who are actively engaged in ministerial work in Oklahoma are exempt

(Blue denotes an exemption that appears in 68 O.S. §2887 but not in the Constitution)





## And the Exemption goes to.... cont'd

### □ Property used *exclusively (and directly)* for:

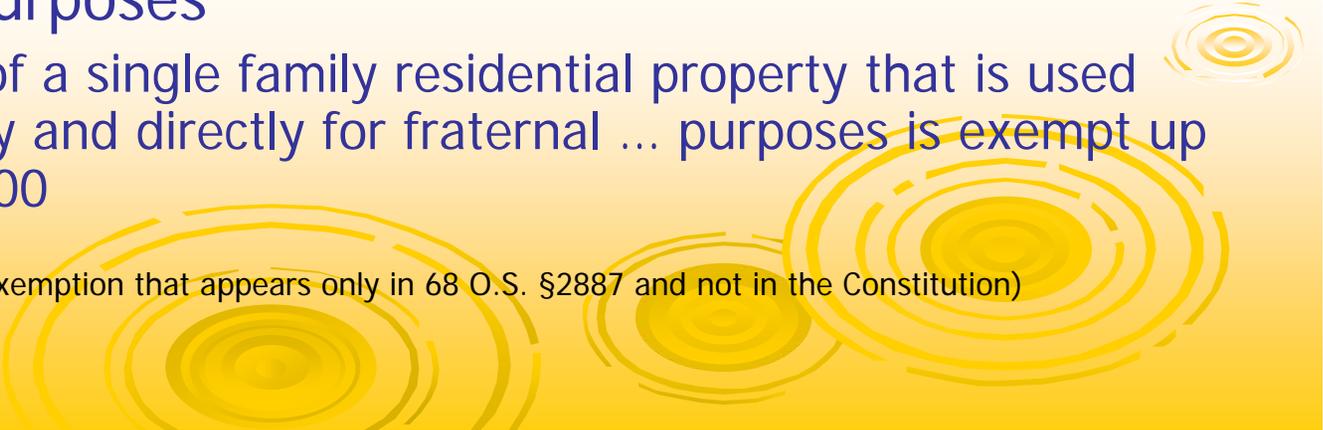
#### ➤ Charitable purposes

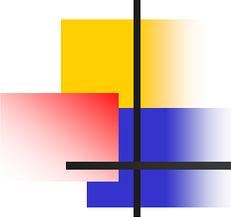
- Statute - §2887(9) - includes: “within this state, provided that the charity using said property does not pay any rent or remuneration to the owner thereof ...”

#### ➤ Fraternal purposes

- The FCV of a single family residential property that is used exclusively and directly for fraternal ... purposes is exempt up to \$250,000

(Blue denotes an exemption that appears only in 68 O.S. §2887 and not in the Constitution)





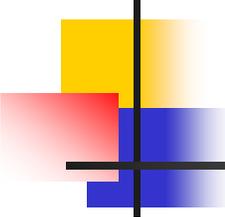
## And the Exemption goes to.... cont'd

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- **All property of - provided that the property is used *exclusively (and directly)* for:**
  - Any college or school, provided such property is devoted exclusively and directly to appropriate objects of such college or school within this state.
  - All books, papers, furniture and scientific or other apparatus pertaining to any institution, college, or society and devoted exclusively and directly for the purpose above contemplated.

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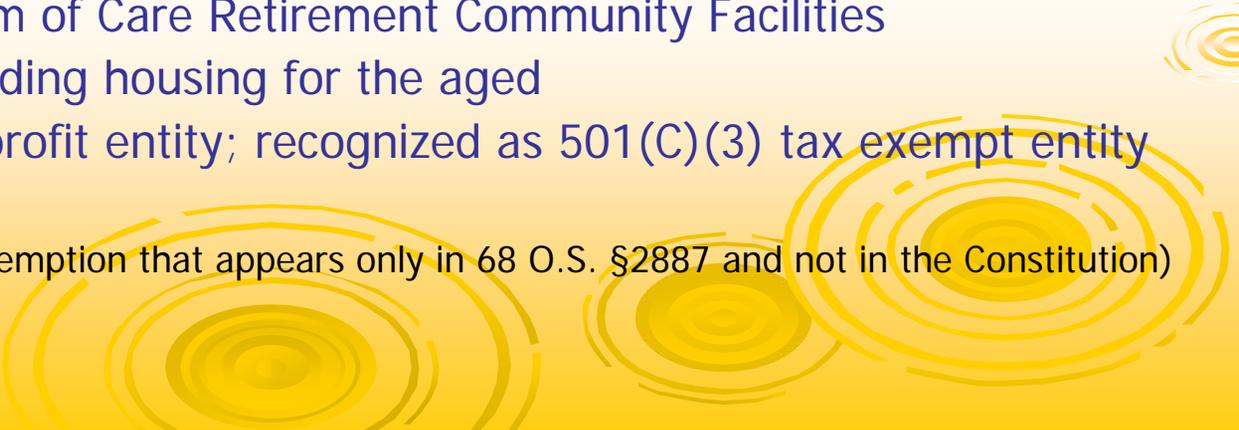


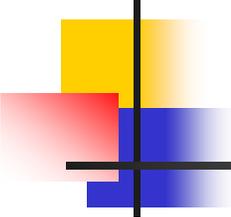
## And the Exemption goes to.... cont'd

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- **All property of - provided that the property is used *exclusively (and directly)* for:**
  - Any charitable institution organized or chartered under laws of Oklahoma, provided net income from such property is used exclusively within this state for charitable purposes and no part of such income goes to the benefit of any private stockholder...including:
    - Certain Subsidized Residential Properties
      - Residents must meet IRS Requirements (Safe Harbor)
      - Owner must make annual application - OTC Form 998
    - Continuum of Care Retirement Community Facilities
      - Providing housing for the aged
      - Nonprofit entity; recognized as 501(C)(3) tax exempt entity

(**Blue** denotes an exemption that appears only in 68 O.S. §2887 and not in the Constitution)



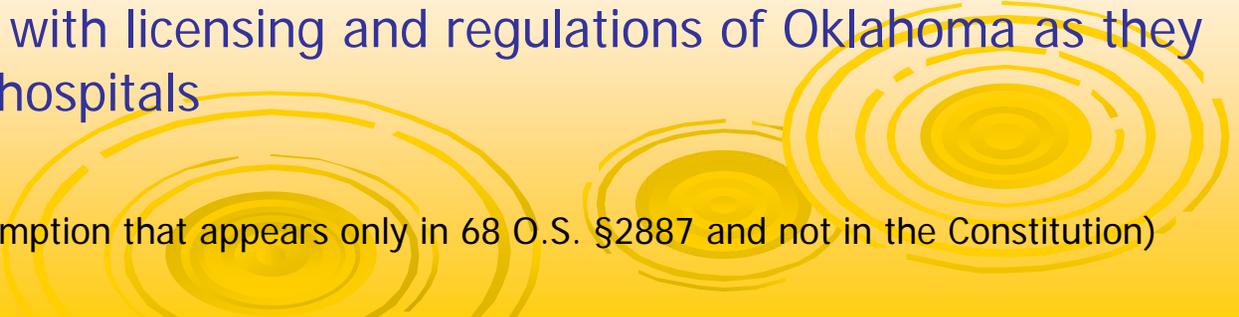


## And the Exemption goes to.... cont'd

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- **All property of - provided that the property is used *exclusively (and directly)* for:**
  - **Non-profit and charitable hospitals, provided:**
    - ✓ The property and net income from hospital are used directly, solely, and exclusively within this state for charitable purposes
    - ✓ No part of such income shall contribute to the benefit of any individual
    - ✓ Hospital must be open to the public without discrimination and regardless of ability to pay
    - ✓ Complies with licensing and regulations of Oklahoma as they relate to hospitals

(**Blue** denotes an exemption that appears only in 68 O.S. §2887 and not in the Constitution)



# “Exclusive Use” Exemption is a Question of Fact:

- Factors to consider when determining taxable status:
  - Ownership - of record on Jan 1
  - Use – “devoted and dedicated”
  - Purpose – Charitable, Religious, etc.

***Don't forget:***

***The Burden is on the Taxpayer to Show That They Qualify for an Exemption***

# Decision time: Do You Give The Exemption?

Don't hesitate to discuss any determination of eligibility with your District Attorney before implementing a final administrative action

*because...*

If the exemption is denied, the Taxpayer has the right to petition the Board of Tax Roll Correction for the exemption and, depending on the outcome at the Board, then appeal to District Court where you will inevitably be represented by your D.A.

