



Oklahoma Ad Valorem

FORUM

Director's Notes:

Okay, try this one on for size. On the morning of our drive down to Jefferson County, Cyndi Heath, our secretary, opened up my office door and saw a set of reptile eyes staring at her from behind my overflowing waste basket. She checked out the two-foot garden snake for one nano-second and then ran for help. Things were zooming like June bugs around here for a little while until heroic Joe Hapgood and Warren Stubbs captured the snake and released him in the wilds of the vacant lot next door (I'm still opening my desk drawer very, very slowly).

By the time this newsletter hits the web site or you get it email or snail-mail, we will be finishing our preparation for the State Board of Equalization (SBOE) meeting. The meeting this year will be Monday June 16, 2003. It has been moved to 4 p.m.

Please remember to get your abstracts in by June 13, 2003 so that we can review them completely before presenting them to the State Board of Equalization (SBOE) or by the crack of dawn on Monday, June 16, 2003. Please avoid any delay by getting those abstracts in as early as possible. Statutes are pretty strict on the deadline so please let us know in writing as soon as you can if you have any delay.

We're extremely busy at the AdValorem Division as we complete the hundreds of public service valuations, review county abstracts, and prepare to get compliance reports in on time. The Public Service Section is submerged in returns, and we have a number of returns and conferences to complete before the State Board of Equalization (SBOE) meeting. Thanks to all the counties for their hard work and assistance in getting their abstracts completed.

Looking back on the "May 2003 Meeting Cycle" we all enjoyed the District meetings and our session with the Oklahoma Association of Tax Representatives (OATR) in Tulsa.

We didn't log as many miles as last year with the record-setting travel from McCurtain County to Cimarron County, but the road show went from Tulsa to Ellis to Pottawatomie to Lincoln to Jefferson Counties. As I've said many times before, it was great to see so much of the state and I enjoyed getting out of the office. Thanks especially to Sherry Nichols, Karen Perkins, Joy Anderson, Randy Wintz, and Teresa Tallon for hosting the meetings and taking care of our audio-visual stuff. If you haven't hosted a District meeting it's pretty amazing to imagine how much work it is.

The Tulsa Educational Conference is fast approaching. Things are all up to the budget, but we've met with the County Assessors' Association officers and have done some coordination on the School. The budgetary process is really tight, but we're working hard to make this another great school. The State Auditor and Inspector (SA&I) and Center for Local Government Technology (CLGT) are preparing to assist with the classes again this year.

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A Look Ahead...

- July 4, Independence Day
- CLGT Course Schedule For July Not Available At Publication Time— Call CLGT For Course Dates And Information



Continued from page 1 “Director’s Notes”...

The Oklahoma Legislature session is over. We had a meeting over at the Capitol yesterday and it was so quiet after the excitement and energy of the session. We’ve been looking through the various bills to determine if last minute changes have occurred. So far, we haven’t seen anything of great magnitude, but there were many significant legislative topics discussed throughout the closing hours of the session.

I know this is a busy and stressful time of the tax year. Sometimes, the job of county assessor is tough, but we appreciate the hard work and conscientious effort of all county assessors and deputies to improve the Oklahoma ad valorem system and make it better than it was given to us for taxpayers everywhere. We need to remind ourselves that we can always improve our service, but a sincere professional effort every day goes a long way toward our efforts as the “guardian of fairness.”

Sincerely,
Jeff Spelman CAE
Director

P.S. “If you start out to count the entire world population of “snakes in the grass”, you will find that the exact number will turn out to be considerably higher than just the total number of reptiles.” — Anwar Caddo (Note the tie-in to the earlier snake story).

“Mapping Minute” With Troy Frazier

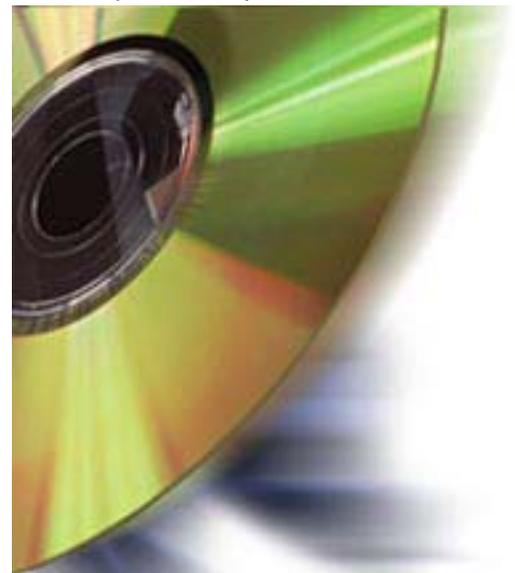
I went to the Tulsa school and all I got was this lousy CD-ROM (or diskette)!

During the past six months, the NRCS has released digital soil mapping layers for sixteen more counties. This brings the total available to twenty-five.

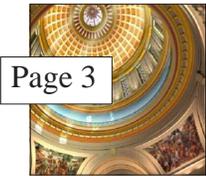
More may be available by the time the Educational Conference gets here. Also, the U.S. Census Bureau has released another updated set of TIGER roads. These road mapping layers should have road corrections and any rural 911 addressing done since the pre-2000 census road layers were released.

At Tulsa, you will receive both of these layers (if the soil layer for your county is available) with the updated school district and city boundaries.

If you have recently changed mapping systems, please call me and let me know. This will allow me to make sure that the layers I give you will work with your mapping system.



Remember: There are four “Norths”: magnetic, grid (the north of whatever land grid you are using in your mapping system), true, and the north as found in the legal descriptions of deeds that do not match anything else!



New Attorney General Opinions Issued

Two new ad valorem-related Attorney General opinions have been recently issued. The first deals with millage rate adjustment provisions for counties abolishing household personal property. The second addresses application deadlines for the five-year manufacturer's exemption.

Attorney General Opinion 03-22, issued on May 21st, answers two questions on the millage rate adjustment after a county has voted to abolish the household personal property tax. The opinion states that only the general and building fund millage in effect at the time the election is held is to be adjusted, and any general and building fund millage approved **after** the election is not entitled to a millage rate adjustment.

The opinion also says that whether the millage adjustment applies to any new millage created by a constitutional amendment after an election to abolish household personal property has been held depends upon the language of the new constitutional amendment, and cannot be answered by an Attorney General opinion at this time.

Attorney General Opinion 03-23, issued on June 3, clarifies filing deadlines for applications for the five-year exempt manufacturing program.

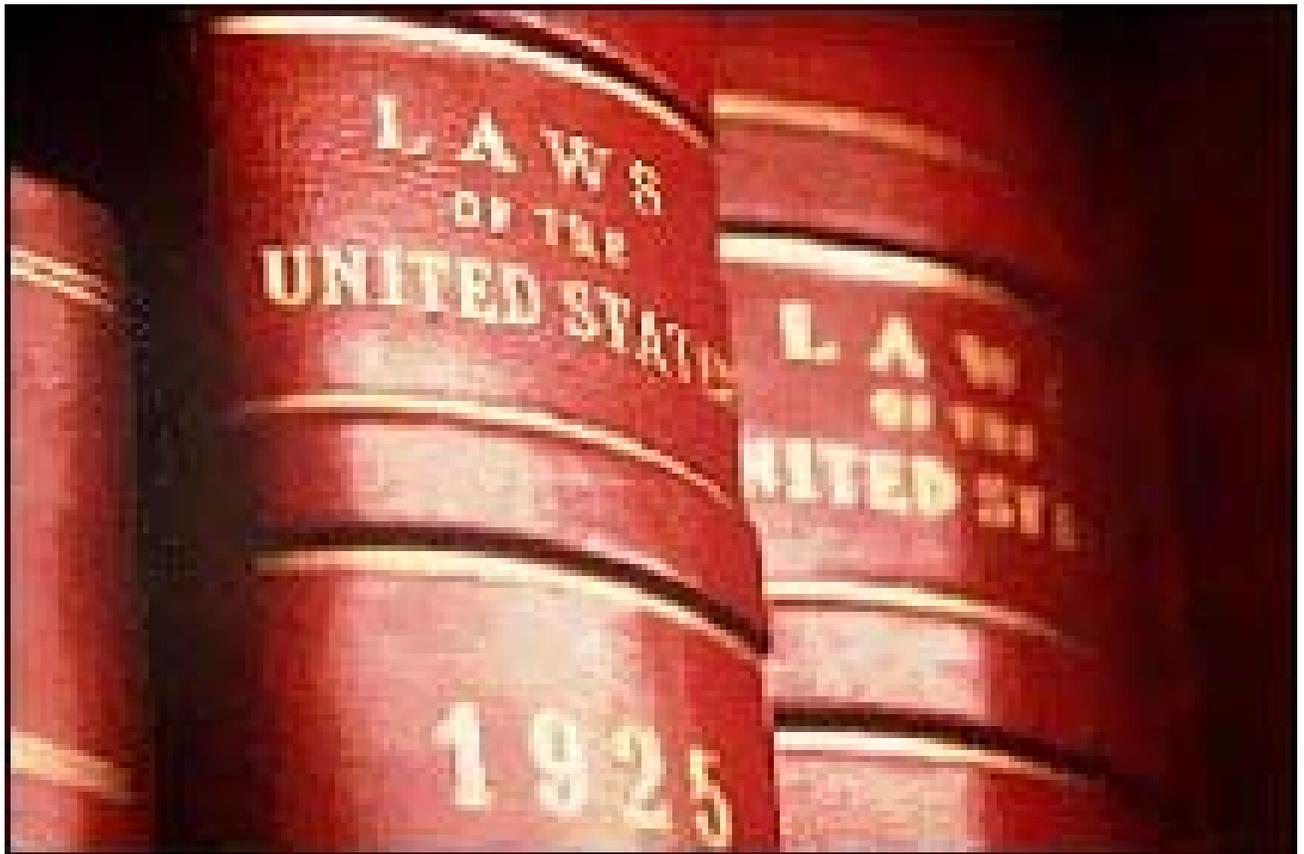
The opinion states that the application must be filed before March 15 of each year unless there is an increase of real property from the preceding year, or an increase in the valuation of the taxpayer's rendered personal property, in which case it must be filed the later of thirty days from receipt of the notice of valuation increase or March 14.

The opinion also says that the application for exemption from ad valorem taxes of tangible personal property moving through Oklahoma must be filed with the County Assessor on or before March 15 of each year.

Finally, Opinion 03-23 states that a County Assessor cannot consider "good cause" or "best interests of the public" for applications exempting ad valorem taxes which are filed after the statutory deadlines.

These opinions are detailed in recent OTC bulletins sent to county assessors, Bulletins 03-26 and 03-27. After reading these OTC bulletins, if you have further questions, please call Kenny Chuculate at (405) 521-3178.

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Property Tax News From Around The Country

Washington Governor Signs Nonprofit Property Tax Bill

Washington Governor Gary Locke (D) has signed HB 1905, which expands the property tax exemption granted to nonprofit museums and performing art associations.

Texas Senate Votes to Hike, Expand Sales Tax To Fund Schools

The Texas Senate has approved a public school finance plan (Substitute HB 5) that would substitute a higher and expanded state sales tax for decreased local property taxes, sending the measure back to the House of Representatives.

New Hampshire Considering Law Reimbursing Property Owner In Successful Appeals

Under a bill (HB 413) pending in the New Hampshire Senate Public Affairs Committee, taxpayers could be awarded attorney's fees and other costs if they are successful in challenges of property assessments.

Iowa Lawmakers Deal With Property Taxes In Special Session

Iowa legislators finished up the 2003 regular session without resolving several important tax questions—among them an income tax cut and property tax reform—and they will be back this month to do that in a special session.

Pennsylvania Plan Would End School Property Tax, Broaden Sales Tax Increase

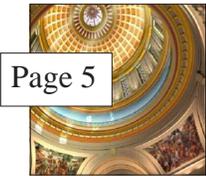
A group of conservative members of the Pennsylvania House is pushing a radical plan to eliminate the school property tax and replace it with a sales tax that would be imposed on a broader array of goods and services while lowering the rate.

Washington Governor Expected To OK Breaks For Semiconductor Makers

Washington Governor Gary Locke (D) is expected to sign legislation (SB 5725) that would provide property tax breaks for semiconductor manufacturing plants.

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“Overcoming Property Tax Demons And Mysteries”

Excerpts from an Article by Alan S. Dornfest, AAS

Appearing in the January, 2003 IAAO Magazine Fair & Equitable

Applicability of Property Tax Substitutes

Aside from issues related to the incidence of substitute taxes, there are questions of applicability and administration. Some taxes, such as income tax are termed “elastic,” in that revenue generated tends to increase rapidly during times of economic growth.

Sales taxes tend to be less elastic, and property taxes tend to be the least elastic of the major tax choices. In practice this means that jurisdictions relying more on income tax and less on property tax tend to have difficulties financing services during economic downturns. In addition, property tax revenue has the advantage of being the only tax revenue that can be predicted accurately at the start of a fiscal year (Hovey, 1996).

Property, especially real property, provides a relatively immobile asset that, in most cases, can clearly be identified as to its location within the geographic boundaries of any local government. This is not true for income taxes, where questions of location can be resolved as either home or business site.

Sales taxes generally are thought of as simple in concept and application. Unfortunately, exemptions abound, and these complicate the administration of this tax, forcing states and localities to develop definitions for “food,” “pollution control equipment,” “drugs,” and other goods that are not as clearly definable as might be expected.

In addition, the issue of where a purchase is made has become daunting, particularly as consumption shifts from goods toward services. Also, Internet sales have been expanding rapidly and are estimated to be reducing overall sales tax collections by about 4.5 percent (fiscal year

2003). When multiple local jurisdictions levy sales tax at different rates, disputes may arise over where the sales or use occurred and, therefore, over which rate should be paid and to which local jurisdiction.

Both sales and income taxes are widely used by states. When local versions are added, or “pyramided,” on top of state taxes, the overall rate of the tax can become quite high. For example, a 2 percent city sales tax on top of a 1 percent county sales tax on top of a 6 percent state sales tax could have economic implications and cause unintended economic distortions (Oates, 2001).

In any event, the attractiveness and flexibility of this revenue source is reduced. Because it can be administered locally and does not suffer from the mobility and pyramiding issues associated with other possible local taxes, the property tax provides local government with a flexible and reliable revenue source with which to meet local demands.

Aside from issues of fiscal stability and administration, property taxes provide local governments with a degree of autonomy and independence that would not occur if funding came from a higher, presumably larger government.

Resolving Ability to Pay Issues

Aside from assessed value increase limitations or caps discussed previously, the issue of ability to pay often is dealt with through property tax controls that include exemptions, classification systems, deferrals, and circuit breakers.

All controls and exemptions appear politically attractive on the surface. However, more intensive analysis shows that most controls tend to increase property tax rates and property taxes on non-favored groups, provoking a “domino effect” of complaints. This in turn leads to more controls, “the true effect of which becomes lost and may even be to shift more taxes to favored groups” (IAAO, 1997, section 5.3).

Although exemptions and classification systems can create backlash or intensify complaints, state-funded circuit breakers and deferrals target tax relief to identified groups and generally do not cause shifts

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between property tax payers. Often, such programs target poorer and elderly households for whom the property tax has been shown to be regressive (Reschovsky, 1994).

Circuit Breaker Issues

Circuit breaker programs provide property tax relief to low-income or elderly homeowners or renters (or taxpayers meeting other needs-related criteria). Eligible taxpayers either are not required to pay all or part of their property tax or receive refunds or credits when filing state income tax returns.

When the property taxes are directly reduced, local governments are held harmless because states replace otherwise lost revenue. Most states phase out benefits as claimants' incomes increase. Circuit breaker programs are widely available and can effectively address regressivity and ability to pay issues.

It might be assumed that those eligible for circuit breaker programs would be quick to apply. Unfortunately, comparisons to Census Bureau data show low application rates. In Idaho, for example, such analysis using income, age, and home ownership status information from the 1990 census indicated about a 55 percent participation rate.

A survey published on national participation rates indicated similar low rates, with responses that varied widely by state from 13 percent to 100 percent (Baer, 1998). Lack of awareness is strongly indicated as a culprit in low participation in this program. for others involved in the process.

2003 Ad Valorem Legislative Summary

The First Regular Session of the 49th Oklahoma Legislature was a light one for ad valorem bills. Modifications to the Five-Year Exempt Manufacturing program were made, along with some additional restrictions to the ad valorem exemption statutes. Additionally, tornado relief legislation is of interest.

Five Year Exempt Manufacturing Legislation

Senate Bill 300, modifying statutory components of the Five Year Exempt Manufacturing program, alters several provisions contained in 68 O.S., § 2902.

Language was added to 2902 (A) which clarifies the term unoccupied. This has the effect of allowing continued qualification of facilities that are transferred or sold during the exemption period.

Requirements for distribution establishments were altered, with the minimum wage and salary changing from 150% percent to 175% of the federally mandated minimum wage. This changes the minimum required wage from \$7.73 to \$9.01 per hour. The current wage range for distribution

facilities already in the program is between \$10.00 and \$14.00 per hour.

Also modified for distribution establishments was the provision for construction prior to December 31, 2002. This date was changed to December 31, 2006.

This legislation also specifies that any facility qualifying for an exemption on or after January 1, 1999 in which ownership changes during the five-year period of the exemption will continue to receive the exemption for the balance of the five-year period as long as all other qualifications are met.

Modifications to payroll requirements for manufacturing facilities were altered, establishing new criteria for applications approved after July 1, 2003. These new requirements specify that an application will be granted only if there is a net increase in annualized payroll of at least \$250,000 if the facility is located in a county with a population of fewer than 50,000, or at least \$1,000,000 if the facility is located in a county with a population of 50,000 or more according to the most recent federal census.

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The provision for manufacturing facilities to be deemed to have met payroll requirements if capital improvements of at least \$10,000,000 were made during any of the five-year period was stricken from the statute. Minimum payroll requirements must now be met by all facilities, including those that have made major capital improvements.

Language from 2902 (C) (6) was removed that required a facility with a \$200,000,000 minimum investment with five hundred employees or more to maintain the existing number of employees for the five-year exemption period.

Finally, Senate Bill 300 adds language requiring facilities engaged in data preparation, or information processing services defined in certain SIC and NAICS codes making initial application on or after January 1, 2003 and before July 1, 2003 if the initial investment is at least \$7,000,000 or more while increasing payroll at least \$250,000 and who offer a basic health benefit plan.

Additional five-year exemption modifications were made through HB 1251. This bill adds language for automotive final assembly plants that provides for the retention of eligibility of assets damaged or destroyed by the May 8, 2003 tornado for the five-year manufacturing exemption based on the value of the previously qualifying assets as of January 1, 2003.

HB 1251 also adds language providing for temporary layoffs because of the tornado not to have an adverse effect on the employment of 1,750 or more FTE. The average employment requirement is waived for the year 2003.

Ad Valorem Exemption Statute Changes

HB 1474 strikes language in 68 O.S., 2001, § 2887 which has the effect of tightening exemption requirements for certain charitable or nonprofit facilities.

Tornado Relief Legislation for the May 8, 2003 Tornado

HB 1251 provides an income tax credit for persons affected by the May 8, 2003 tornado, and allows for retention of homestead exemption for persons whose primary residence was destroyed or damaged in the May, 8 or May 9, 2003 tornadoes, if the residence was rebuilt or purchased at a different location. The application must be filed by June 1, 2004.

Desulphurization Equipment Exemption

HB 1712 modifies part of 68 O.S. § 2817 to expand the refinery desulphurization exemption from ad valorem taxation to include all oil refineries. Previously the language provided an exclusion for “small” oil refineries. Desulphurization equipment is to be exempted from valuation if such property would qualify under 68 O.S. § 2902, whether or not an application for this exemption is made by an otherwise qualifying manufacturing concern owning the property described by Section 2817.3.

A detailed review of this year’s ad valorem legislation will be conducted at the Annual Educational Conference in August. If you have any questions regarding changes to the ad valorem tax code, please call Kenny Chuculate at (405) 521-3178.

