

HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE SUBSTITUTE FOR
HOUSE BILL 375

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

AN ACT

RELATING TO TAXATION; PROVIDING FOR ALTERNATIVE UNIT VALUATION
OF PROPERTY USED IN THE PROCESSING, GATHERING, TRANSMISSION OR
DISTRIBUTION OF OIL, GAS, CARBON DIOXIDE OR LIQUID
HYDROCARBONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-36-27 NMSA 1978 (being Laws 1975,
Chapter 165, Section 8, as amended) is amended to read:

"7-36-27. SPECIAL METHOD OF VALUATION--PIPELINES, TANKS,
SALES METERS AND PLANTS USED IN THE PROCESSING, GATHERING,
TRANSMISSION, STORAGE, MEASUREMENT OR DISTRIBUTION OF OIL,
NATURAL GAS, CARBON DIOXIDE OR LIQUID HYDROCARBONS.--

A. All pipelines, tanks, sales meters and plants
used in the processing, gathering, transmission, storage,
measurement or distribution of oil, natural gas, carbon dioxide

.161397.1

underscored material = new
[bracketed material] = delete

1 or liquid hydrocarbons subject to valuation for property
2 taxation purposes shall be valued in accordance with the
3 provisions of this section.

4 B. As used in this section:

5 (1) "construction work in progress" means the
6 total of the balances of work orders for pipelines, plants,
7 large industrial sales meters and tanks in the process of
8 construction on the last day of the preceding calendar year,
9 exclusive of land and land rights and equipment, machinery or
10 devices used or available to construct pipelines, plants, large
11 industrial sales meters and tanks but that are not incorporated
12 therein;

13 [~~1~~] (2) "depreciation" means straight-line
14 depreciation over the useful life of the item of property;

15 [~~2~~] (3) "direct customer distribution
16 pipeline" means low or intermediate pressure distribution
17 system pipeline of four inches or smaller diameter situated in
18 urban areas;

19 (4) "economic obsolescence" means the loss in
20 value caused by unfavorable economic influences or factors
21 outside the property, and the loss is in addition to the loss
22 in value attributable to physical depreciation;

23 (5) "functional obsolescence" means the loss
24 of value due to functional inadequacies or deficiencies caused
25 by factors within the property, and the loss in value is in

.161397.1

1 addition to the value loss attributable to physical
2 depreciation;

3 [~~3~~] (6) "large industrial sales meter" means
4 a sales meter having an installed tangible property cost in
5 excess of two thousand five hundred dollars (\$2,500);

6 [~~4~~] (7) "other justifiable factors"
7 includes, but is not limited to, functional and economic
8 obsolescence;

9 [~~5~~] (8) "pipeline" means all pipe,
10 appurtenances and devices used in systems for gathering,
11 transmission or distribution, but excludes sales meters,
12 pipeline operated exclusively for and constituting a part of a
13 plant and direct customer distribution pipeline;

14 [~~6~~] (9) "plant" means any refinery, gasoline
15 plant, extraction plant, purification plant, compressor or
16 pumping station or similar plant including all structures,
17 equipment, pipes and other related facilities, excluding
18 residential housing, office buildings and warehouses;

19 [~~7~~] (10) "sales meter" means the meter,
20 regulator and all appurtenances and devices used for measuring
21 sales to customers and includes the service pipe to the
22 customer's property line from the point of connection with the
23 pipeline;

24 [~~8~~] (11) "schedule value" means a fixed
25 value of an individual property unit within a mass of similar

.161397.1

1 or like units established by determining the total tangible
2 property cost of a substantial sample of such property and
3 deducting therefrom an average related accumulated provision
4 for depreciation and allocating a proportionate part of the
5 remainder to individual taxable property units;

6 [~~(9)~~] (12) "tangible property cost" means the
7 actual cost of acquisition or construction of property,
8 excluding construction work in progress, including additions,
9 retirements, adjustments and transfers, but without deduction
10 of related accumulated provision for depreciation, amortization
11 or other purposes and excluding any amount attributable to oil
12 or gas reserves dedicated to such item of property; and

13 [~~(10)~~] (13) "tank" means any storage tank or
14 container, other than a natural reservoir, for storage that is
15 not a component part of any plant [~~and~~

16 ~~(11) "construction work in progress" means the~~
17 ~~total of the balances of work orders for pipelines, plants,~~
18 ~~large industrial sales meters and tanks in the process of~~
19 ~~construction on the last day of the preceding calendar year,~~
20 ~~exclusive of land and land rights and equipment, machinery or~~
21 ~~devices used or available to construct pipelines, plants, large~~
22 ~~industrial sales meters and tanks but which are not~~
23 ~~incorporated therein].~~

24 C. Sales meters, other than large industrial sales
25 meters, shall be valued as follows:

.161397.1

1 (1) the [~~division~~] department may periodically
 2 determine the average tangible property cost of a substantial
 3 sample of sales meters in general use in the state;

4 (2) such average tangible property cost shall
 5 then be reduced by the average related accumulated provision
 6 for depreciation applicable to the sample of sales meters; and

7 (3) from the foregoing determinations a
 8 schedule of value for sales meters for property taxation
 9 purposes shall be determined and set forth in a regulation
 10 [~~adopted pursuant to Section 7-38-88 NMSA 1978~~].

11 D. A taxpayer having property subject to valuation
 12 pursuant to this section shall have the property valued by the
 13 department in accordance with Subsection E of this section.

14 [~~D.~~] E. Pipelines, direct customer distribution
 15 pipelines, large industrial sales meters, tanks and plants
 16 valued under this subsection shall be valued as follows:

17 (1) the valuation authority shall first
 18 establish the tangible property cost of each item of property;

19 (2) from such tangible property cost shall be
 20 deducted the related accumulated provision for depreciation and
 21 any other justifiable factors, including functional and
 22 economic obsolescence, that further affect the tangible
 23 property value of each item of property; and

24 (3) notwithstanding the foregoing
 25 determination of value for property taxation purposes, the

.161397.1

1 value for property taxation purposes of each item of property
2 valued under this subsection shall not be less than twenty
3 percent of the tangible property cost of such item of property.

4 ~~[E.]~~ F. Construction work in progress shall be
5 valued at fifty percent of the amount expended and entered upon
6 the accounting records of the taxpayer as of December 31 of the
7 preceding year as construction work in progress.

8 ~~[F.]~~ G. Each item of property having a taxable
9 situs in the state and valued under this section shall have its
10 net taxable value allocated to the governmental units in which
11 the property is located.

12 ~~[G. The division shall adopt regulations under~~
13 ~~Section 7-38-88 NMSA 1978 to implement the provisions of this~~
14 ~~section.]~~

15 H. Claims for the deduction of economic or
16 functional obsolescence shall contain a requested obsolescence
17 factor along with a brief statement of the facts upon which the
18 claim is made, together with the necessary documentation to
19 support the claim. The documentation may include items such as
20 monthly throughput volumes from the prior year; comparisons to
21 a documented industry standard; comparisons to a close
22 competitor; and an engineer's or appraiser's valuation. The
23 department may adopt rules that include other types of
24 objective evidence of functional or economic obsolescence.

25 J. If the department believes that a taxpayer has

1 not established a claim for functional or economic
 2 obsolescence, it shall advise the taxpayer in writing of the
 3 reasons for its determination and what additional information
 4 is required to establish obsolescence. The department shall
 5 make the response in sufficient time to allow the taxpayer to
 6 address the deficiencies."

7 Section 2. Section 7-38-8 NMSA 1978 (being Laws 1973,
 8 Chapter 258, Section 48, as amended) is amended to read:

9 "7-38-8. REPORTING OF PROPERTY FOR VALUATION--PENALTIES
 10 FOR FAILURE TO REPORT.--

11 A. All property subject to valuation for property
 12 taxation purposes by the department shall be reported annually
 13 to the department. The report required by this subsection
 14 shall be made by the owner of the property or such other person
 15 as may be authorized by regulations of the department. The
 16 report shall be in a form and contain the information required
 17 by regulations of the department. It shall be made not later
 18 than the last day of February in the tax year in which the
 19 property is subject to valuation. Claims of economic or
 20 functional obsolescence on nonfederally regulated properties
 21 must be made at the time the annual report is filed; however,
 22 the department shall accept supplements to the annual report
 23 containing claims of economic or functional obsolescence on
 24 properties regulated by the federal energy regulatory
 25 commission or its successor at the time the annual commission

.161397.1

1 report becomes available, but no later than April 15 of the tax
2 year, or at a later time allowed by an extension granted by the
3 department. Requests must be based on information known about
4 the property prior to January 1 of the tax year. In the case
5 of the failure or refusal to file the report required under
6 this subsection, the department shall determine the value of
7 the property subject to valuation from the best information
8 available.

9 B. Except as provided in Subsection D of this
10 section, all property subject to valuation for property
11 taxation purposes by the county assessor shall be reported as
12 follows:

13 (1) property valued in the 1974 tax year by
14 the county assessor need not be reported for any subsequent tax
15 year unless required to be reported under Paragraph (3) of this
16 subsection;

17 (2) property not valued in the 1974 tax year
18 by the county assessor but that becomes subject to valuation by
19 the county assessor in any subsequent tax year shall be
20 reported to the county assessor not later than the last day of
21 February of the tax year in which it becomes subject to
22 valuation, but such property need not be reported for any year
23 subsequent to the year in which initially reported unless
24 required to be reported under Paragraph (3) of this subsection;

25 (3) property once valued by a county assessor

1 in a tax year, but which is not valued for a year subsequent to
2 the year of initial valuation because it is not subject to
3 valuation for that subsequent year by the county assessor,
4 shall be reported to the county assessor not later than the
5 last day of February in a tax year in which it again becomes
6 subject to valuation by the county assessor; and

7 (4) reports required under Paragraphs (2) and
8 (3) of this subsection shall be in a form and contain the
9 information required by regulations of the department.

10 C. Not later than the last day of February of each
11 tax year, every owner of real property who made, or caused to
12 be made, in the preceding calendar year improvements costing
13 more than ten thousand dollars (\$10,000) to that real property
14 shall report to the county assessor the property improved, the
15 improvements made, the cost of the improvements and such other
16 information as the department may require.

17 D. Manufactured homes, livestock and land used for
18 agricultural purposes shall be reported for valuation for
19 property taxation purposes to the county assessor at the times
20 and in the manner prescribed under Sections 7-36-26, 7-36-21
21 and 7-36-20 NMSA 1978 and regulations promulgated by the
22 department.

23 E. Property subject to valuation by the county
24 assessor for property taxation purposes and improvements to
25 such property that are required to be reported under Subsection
.161397.1

1 C of this section shall be reported to the county assessor of
2 the county in which the property is required to be valued under
3 Section 7-36-14 NMSA 1978. Reports shall be made either by the
4 owner of the property, the owner's authorized agent or any
5 person having control or management of the property and shall
6 be in a form and contain the information required by
7 regulations of the department.

8 F. Reports required by this section shall be made
9 by the declarant under oath, and the director, employees of the
10 department, the assessor and ~~[his]~~ the assessor's employees are
11 empowered to administer oaths for this purpose.

12 G. ~~[Any]~~ A person who intentionally refuses to make
13 a report required ~~[of him]~~ under the provisions of Subsection
14 A, B or C of this section or who knowingly makes a false
15 statement in a report required under the provisions of
16 Subsection A, B or C of this section is guilty of a misdemeanor
17 and upon conviction shall be punished by the imposition of a
18 fine of not more than one thousand dollars (\$1,000).

19 H. ~~[Any]~~ A person who fails to make a report
20 required ~~[of him]~~ under the provisions of Subsection A or B of
21 this section is liable for a civil penalty in an amount equal
22 to five percent of the property taxes ultimately determined to
23 be due on the property for the tax year or years for which ~~[he]~~
24 the person failed to make the required report.

25 I. ~~[Any]~~ A person who intentionally refuses to make

1 a report required [~~of him~~] under the provisions of Subsection A
2 or B of this section with the intent to evade any tax or who
3 fails to make a report required [~~of him~~] under the provisions
4 of Subsection A or B of this section with the intent to evade
5 any tax is liable for a civil penalty in an amount equal to
6 twenty-five percent of the property taxes ultimately determined
7 to be due on the property for the tax year or years for which
8 [~~he~~] the person refused or failed to make the required report.

9 J. [~~Any~~] A person who is required to make a report
10 under the provisions of Subsection C of this section and who
11 fails to do so is personally liable for a civil penalty in an
12 amount equal to the greater of twenty-five dollars (\$25.00) or
13 twenty-five percent of the difference between the property
14 taxes ultimately determined to be due and the property taxes
15 originally paid for the tax year or years for which the person
16 failed to make the required report. This penalty shall not be
17 considered a delinquent property tax, and the provisions of the
18 Property Tax Code for the enforcement and collection of
19 delinquent property taxes through the sale of the property do
20 not apply. However, the county treasurer may use all other
21 methods provided by law to collect the property tax or penalty
22 due. Notwithstanding any other provision of the Property Tax
23 Code, amounts collected pursuant to the penalty provided by
24 this subsection shall be distributed among jurisdictions
25 imposing tax on the property in the same proportion as the

.161397.1

1 amount of tax ultimately determined to be due for the
2 jurisdiction bears to the total due for all such jurisdictions.

3 K. The civil penalties authorized under Subsections
4 H and I of this section shall be imposed and collected at the
5 time and in the manner that the tax is imposed and collected.
6 In order to assist in the imposition and collection of the
7 penalties, the persons having responsibility for determining
8 the value of the property shall make an entry in the valuation
9 records indicating the liability for any penalties due under
10 this section.

11 L. For the purposes of this section:

12 (1) "improvements" means the construction of
13 any new structure permanently affixed to the land or the
14 repair, rehabilitation or alteration of an existing structure
15 permanently affixed to the land that, for property used for any
16 commercial purpose, is required or allowed to be capitalized
17 under the Internal Revenue Code and, for other properties, any
18 similar construction, repair, rehabilitation or alteration; and

19 (2) "owner of real property" includes every
20 owner of improvements who does not own the land upon which the
21 improvements are made."

22 Section 3. APPLICABILITY.--The provisions of this act
23 apply to the 2006 and subsequent property tax years.

24 Section 4. EFFECTIVE DATE.--The effective date of the
25 provisions of this act is July 1, 2006.

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