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HOUSE BILL 665

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Roberto "Bobby" J. Gonzales

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

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

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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 that are used or are available for use to construct
11 pipelines, plants, large industrial sales meters and tanks but
12 that are not incorporated into the pipelines, plants, large
13 industrial sales meters or tanks;

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

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

20 (4) "economic obsolescence" means, with
21 respect to valuation for property taxation purposes, loss in
22 value of a property caused by unfavorable economic influences
23 or factors outside of the property; "economic obsolescence" is
24 a loss in value in addition to a loss in value attributable to
25 physical depreciation;

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1 (5) "functional obsolescence" means, with
2 respect to valuation for property taxation purposes, loss in
3 value of a property caused by functional inadequacies or
4 deficiencies caused by factors within the property; "functional
5 obsolescence" is a loss in value in addition to a loss in value
6 attributable to physical depreciation;

7 [~~(3)~~] (6) "large industrial sales meter" means
8 a sales meter having an installed tangible property cost in
9 excess of two thousand five hundred dollars (\$2,500);

10 [~~(4)~~] (7) "other justifiable factors"
11 includes, but is not limited to, functional obsolescence and
12 economic obsolescence;

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

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

23 [~~(7)~~] (10) "sales meter" means the meter,
24 regulator and all appurtenances and devices used for measuring
25 sales to customers and includes the service pipe to the

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1 customer's property line from the point of connection with the
2 pipeline;

3 [~~(8)~~] (11) "schedule value" means a fixed
4 value of an individual property unit within a mass of similar
5 or like units established by determining the total tangible
6 property cost of a substantial sample of such property and
7 deducting therefrom an average related accumulated provision
8 for depreciation and allocating a proportionate part of the
9 remainder to individual taxable property units;

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

17 [~~(10)~~] (13) "tank" means any storage tank or
18 container, other than a natural reservoir, for storage that is
19 not a component part of [~~any~~] a plant [~~and~~

20 ~~(11) "construction work in progress" means the~~
21 ~~total of the balances of work orders for pipelines, plants,~~
22 ~~large industrial sales meters and tanks in the process of~~
23 ~~construction on the last day of the preceding calendar year,~~
24 ~~exclusive of land and land rights and equipment, machinery or~~
25 ~~devices used or available to construct pipelines, plants, large~~

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1 ~~industrial sales meters and tanks but which are not~~
2 ~~incorporated therein].~~

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

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

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

11 (3) from the ~~[foregoing]~~ determinations
12 pursuant to Paragraphs (1) and (2) of this subsection, a
13 schedule of value for sales meters for property taxation
14 purposes shall be determined and set forth in a ~~[regulation]~~
15 rule adopted ~~[pursuant to Section 7-38-88 NMSA 1978]~~ by the
16 department.

17 D. Pipelines, direct customer distribution
18 pipelines, large industrial sales meters, tanks and plants
19 shall be valued as follows:

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

22 (2) from such tangible property cost shall be
23 deducted the related accumulated provision for depreciation and
24 any other justifiable factors ~~[which]~~ that further affect the
25 tangible property value of each item of property; and

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1 (3) notwithstanding the [~~foregoing~~]
2 determination of value for property taxation purposes in
3 Paragraphs (1) and (2) of this subsection, the value for
4 property taxation purposes of each item of property valued
5 under this subsection shall not be less than twenty percent of
6 the tangible property cost of such item of property.

7 E. Construction work in progress shall be valued at
8 fifty percent of the amount expended and entered upon the
9 accounting records of the taxpayer as of December 31 of the
10 preceding year as construction work in progress.

11 F. Each item of property having a taxable situs in
12 the state and valued under this section shall have its net
13 taxable value allocated to the governmental units in which the
14 property is located.

15 G. A reduction in value asserted by a taxpayer as
16 attributable to economic obsolescence or functional
17 obsolescence shall contain an obsolescence factor along with a
18 brief statement of the facts that support the reduction,
19 together with supporting documentation. The documentation may
20 include items such as monthly throughput volumes from the prior
21 year; comparisons to a documented industry standard;
22 comparisons to a close competitor; and an engineer's or
23 appraiser's valuation. The department may adopt rules that
24 include other types of objective evidence of functional
25 obsolescence or economic obsolescence.

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1 H. If the department determines that a taxpayer has
2 not established, based on the brief statement of facts and the
3 supporting documentation provided, that the reduction for
4 functional obsolescence or economic obsolescence is in
5 accordance with the law or rules adopted by the department, the
6 department shall notify the taxpayer of the department's
7 determination in writing setting forth the reasons for its
8 determination and specifying the supporting information that
9 the department requires. The department shall provide the
10 notice in sufficient time to permit the taxpayer to address the
11 deficiencies before the department issues a valuation notice to
12 the taxpayer.

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

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

18 "7-38-8. REPORTING OF PROPERTY FOR VALUATION--PENALTIES
19 FOR FAILURE TO REPORT.--

20 A. All property subject to valuation for property
21 taxation purposes by the department shall be reported annually
22 to the department. The report required by this subsection
23 shall be made by the owner of the property or such other person
24 as may be authorized by [~~regulations~~] rules of the department.
25 The report shall be in a form and contain the information

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1 required by [~~regulations~~] rules of the department. It shall be
2 made not later than the last day of February in the tax year in
3 which the property is subject to valuation. Claims of economic
4 obsolescence or functional obsolescence on properties not
5 regulated by the federal government shall be made at the time
6 the annual report is filed; however, the department shall
7 accept supplements to the annual report containing claims of
8 economic obsolescence or functional obsolescence on properties
9 regulated by the federal energy regulatory commission or its
10 successor agency at the time the annual commission report
11 becomes available, but no later than April 15 of the tax year
12 following the year in which the property was subject to
13 valuation, or at a later time allowed by an extension granted
14 by the department. In the case of the failure or refusal to
15 file the report required under this subsection, the department
16 shall determine the value of the property subject to valuation
17 from the best information available.

18 B. Except as provided in Subsection D of this
19 section, all property subject to valuation for property
20 taxation purposes by the county assessor shall be reported as
21 follows:

22 (1) property valued in the 1974 tax year by
23 the county assessor need not be reported for any subsequent tax
24 year unless required to be reported under Paragraph (3) of this
25 subsection;

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1 (2) property not valued in the 1974 tax year
2 by the county assessor but that becomes subject to valuation by
3 the county assessor in any subsequent tax year shall be
4 reported to the county assessor not later than the last day of
5 February of the tax year in which it becomes subject to
6 valuation, but such property need not be reported for any year
7 subsequent to the year in which initially reported unless
8 required to be reported under Paragraph (3) of this subsection;

9 (3) property once valued by a county assessor
10 in a tax year, but which is not valued for a year subsequent to
11 the year of initial valuation because it is not subject to
12 valuation for that subsequent year by the county assessor,
13 shall be reported to the county assessor not later than the
14 last day of February in a tax year in which it again becomes
15 subject to valuation by the county assessor; and

16 (4) reports required under Paragraphs (2) and
17 (3) of this subsection shall be in a form and contain the
18 information required by [~~regulations~~] rules of the department.

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

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1 D. Manufactured homes, livestock and land used for
2 agricultural purposes shall be reported for valuation for
3 property taxation purposes to the county assessor at the times
4 and in the manner prescribed under Sections 7-36-26, 7-36-21
5 and 7-36-20 NMSA 1978 and [~~regulations~~] rules promulgated by
6 the department.

7 E. Property subject to valuation by the county
8 assessor for property taxation purposes and improvements to
9 such property that are required to be reported under Subsection
10 C of this section shall be reported to the county assessor of
11 the county in which the property is required to be valued under
12 Section 7-36-14 NMSA 1978. Reports shall be made either by the
13 owner of the property, the owner's authorized agent or any
14 person having control or management of the property and shall
15 be in a form and contain the information required by
16 [~~regulations~~] rules of the department.

17 F. Reports required by this section shall be made
18 by the declarant under oath, and the [~~director~~] secretary,
19 employees of the department, the assessor and [~~his~~] the
20 assessor's employees are empowered to administer oaths for this
21 purpose.

22 G. [~~Any~~] A person who intentionally refuses to make
23 a report required [~~of him~~] under the provisions of Subsection
24 A, B or C of this section or who knowingly makes a false
25 statement in a report required under the provisions of

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1 Subsection A, B or C of this section is guilty of a misdemeanor
2 and upon conviction shall be punished by the imposition of a
3 fine of not more than one thousand dollars (\$1,000).

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

10 I. ~~[Any]~~ A person who intentionally refuses to make
11 a report required ~~[of him]~~ under the provisions of Subsection A
12 or B of this section with the intent to evade any tax or who
13 fails to make a report required ~~[of him]~~ under the provisions
14 of Subsection A or B of this section with the intent to evade
15 any tax is liable for a civil penalty in an amount equal to
16 twenty-five percent of the property taxes ultimately determined
17 to be due on the property for the tax year or years for which
18 ~~[he]~~ the person refused or failed to make the required report.

19 J. ~~[Any]~~ A person who is required to make a report
20 under the provisions of Subsection C of this section and who
21 fails to do so is personally liable for a civil penalty in an
22 amount equal to the greater of twenty-five dollars (\$25.00) or
23 twenty-five percent of the difference between the property
24 taxes ultimately determined to be due and the property taxes
25 originally paid for the tax year or years for which the person

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1 failed to make the required report. This penalty shall not be
2 considered a delinquent property tax, and the provisions of the
3 Property Tax Code for the enforcement and collection of
4 delinquent property taxes through the sale of the property do
5 not apply. However, the county treasurer may use all other
6 methods provided by law to collect the property tax or penalty
7 due. Notwithstanding any other provision of the Property Tax
8 Code, amounts collected pursuant to the penalty provided by
9 this subsection shall be distributed among jurisdictions
10 imposing tax on the property in the same proportion as the
11 amount of tax ultimately determined to be due for the
12 jurisdiction bears to the total due for all such jurisdictions.

13 K. The civil penalties authorized under Subsections
14 H and I of this section shall be imposed and collected at the
15 time and in the manner that the tax is imposed and collected.
16 In order to assist in the imposition and collection of the
17 penalties, the persons having responsibility for determining
18 the value of the property shall make an entry in the valuation
19 records indicating the liability for any penalties due under
20 this section.

21 L. For the purposes of this section:

22 (1) [~~"improvements"~~] "improvement" means the
23 construction of any new structure permanently affixed to the
24 land or the repair, rehabilitation or alteration of an existing
25 structure permanently affixed to the land that, for property

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1 used for any commercial purpose, is required or allowed to be
2 capitalized under the Internal Revenue Code and, for other
3 properties, any similar construction, repair, rehabilitation or
4 alteration; and

5 (2) "owner of real property" includes every
6 owner of improvements who does not own the land upon which the
7 improvements are made."

8 Section 3. APPLICABILITY.--The provisions of this act
9 apply to the 2007 and subsequent property tax years.

10 Section 4. EFFECTIVE DATE.--The effective date of the
11 provisions of this act is July 1, 2007.