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AN ACT

RELATING TO TAXATION; PROVIDING FOR THE USE OF OTHER JUSTIFIABLE FACTORS, INCLUDING ECONOMIC AND FUNCTIONAL OBSOLESCENCE, TO VALUE 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 or liquid hydrocarbons subject to valuation for property taxation purposes shall be valued in accordance with the provisions of this section.

B. As used in this section:

(1) "construction work in progress" means the total of the balances of work orders for pipelines, plants, large industrial sales meters and tanks, in the process of construction on the last day of the preceding

1 calendar year, exclusive of land and land rights and  
2 equipment, machinery or devices that are used or are  
3 available for use to construct pipelines, plants, large  
4 industrial sales meters and tanks but that are not  
5 incorporated into the pipelines, plants, large industrial  
6 sales meters or tanks;

7 (2) "depreciation" means straight line  
8 depreciation over the useful life of the item of property;

9 (3) "direct customer distribution pipeline"  
10 means a low or intermediate pressure distribution system  
11 pipeline of four inches or smaller diameter situated in urban  
12 areas;

13 (4) "economic obsolescence" means, with  
14 respect to valuation for property taxation purposes, loss in  
15 value of a property caused by unfavorable economic influences  
16 or factors outside of the property; "economic obsolescence"  
17 is a loss in value in addition to a loss in value  
18 attributable to physical depreciation;

19 (5) "functional obsolescence" means, with  
20 respect to valuation for property taxation purposes, loss in  
21 value of a property caused by functional inadequacies or  
22 deficiencies caused by factors within the property;  
23 "functional obsolescence" is a loss in value in addition to a  
24 loss in value attributable to physical depreciation;

25 (6) "large industrial sales meter" means a

1 sales meter having an installed tangible property cost in  
2 excess of two thousand five hundred dollars (\$2,500);

3 (7) "other justifiable factors" includes,  
4 but is not limited to, functional obsolescence and economic  
5 obsolescence;

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

11 (9) "plant" means any refinery, gasoline  
12 plant, extraction plant, purification plant, compressor or  
13 pumping station or similar plant, including all structures,  
14 equipment, pipes and other related facilities, excluding  
15 residential housing, office buildings and warehouses;

16 (10) "sales meter" means the meter,  
17 regulator and all appurtenances and devices used for  
18 measuring sales to customers and includes the service pipe to  
19 the customer's property line from the point of connection  
20 with the pipeline;

21 (11) "schedule value" means a fixed value of  
22 an individual property unit within a mass of similar or like  
23 units established by determining the total tangible property  
24 cost of a substantial sample of such property and deducting  
25 therefrom an average related accumulated provision for

1 depreciation and allocating a proportionate part of the  
2 remainder to individual taxable property units;

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

11 (13) "tank" means any storage tank or  
12 container, other than a natural reservoir, for storage that  
13 is not a component part of a plant.

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

16 (1) the department may periodically  
17 determine the average tangible property cost of a substantial  
18 sample of sales meters in general use in the state;

19 (2) such average tangible property cost  
20 shall then be reduced by the average related accumulated  
21 provision for depreciation applicable to the sample of sales  
22 meters; and

23 (3) from the determinations pursuant to  
24 Paragraphs (1) and (2) of this subsection, a schedule of  
25 value for sales meters for property taxation purposes shall

1 be determined and set forth in a rule adopted by the  
2 department.

3 D. Pipelines, direct customer distribution  
4 pipelines, large industrial sales meters, tanks and plants  
5 shall be valued as follows:

6 (1) the valuation authority shall first  
7 establish the tangible property cost of each item of  
8 property;

9 (2) from such tangible property cost shall  
10 be deducted the related accumulated provision for  
11 depreciation and any other justifiable factors that further  
12 affect the tangible property value of each item of property;  
13 and

14 (3) notwithstanding the determination of  
15 value for property taxation purposes in Paragraphs (1) and  
16 (2) of this subsection, the value for property taxation  
17 purposes of each item of property valued under this  
18 subsection shall not be less than twenty percent of the  
19 tangible property cost of such item of property.

20 E. Construction work in progress shall be valued  
21 at fifty percent of the amount expended and entered upon the  
22 accounting records of the taxpayer as of December 31 of the  
23 preceding year as construction work in progress.

24 F. Each item of property having a taxable situs in  
25 the state and valued under this section shall have its net

1 taxable value allocated to the governmental units in which  
2 the property is located.

3 G. A reduction in value asserted by a taxpayer as  
4 attributable to economic obsolescence or functional  
5 obsolescence shall contain an obsolescence factor along with  
6 a brief statement of the facts that support the reduction,  
7 together with supporting documentation. The documentation  
8 may include items such as monthly throughput volumes from the  
9 prior year; comparisons to a documented industry standard;  
10 comparisons to a close competitor; and an engineer's or  
11 appraiser's valuation. The department may adopt rules that  
12 include other types of objective evidence of functional  
13 obsolescence or economic obsolescence.

14 H. If the department determines that a taxpayer  
15 has not established, based on the brief statement of facts  
16 and the supporting documentation provided, that the reduction  
17 for functional obsolescence or economic obsolescence is in  
18 accordance with the law or rules adopted by the department,  
19 the department shall notify the taxpayer of the department's  
20 determination in writing setting forth the reasons for its  
21 determination and specifying the supporting information that  
22 the department requires. The department shall provide the  
23 notice by April 1 or thirty days after the return is filed  
24 but no later than April 15 of the tax year. If the taxpayer  
25 does not file the report by March 15 of the property tax

1 year, the department shall not be required to furnish a  
2 timely notice of deficiency by April 15 of the property tax  
3 year. In the case of properties regulated by the federal  
4 energy regulatory commission, the notice of deficiency shall  
5 be provided to the taxpayer within fifteen days after the  
6 filing of the report and the taxpayer shall then have ten  
7 days within which to correct the deficiency.

8 I. The department shall adopt rules to implement  
9 the provisions of this section."

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

12 "7-38-8. REPORTING OF PROPERTY FOR VALUATION--PENALTIES  
13 FOR FAILURE TO REPORT.--

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

1 accept supplements to the annual report containing claims of  
2 economic obsolescence or functional obsolescence on  
3 properties regulated by the federal energy regulatory  
4 commission or its successor agency at the time the annual  
5 commission report becomes available, but no later than April  
6 15 of the tax year or at a later time allowed by an extension  
7 granted by the department. In the case of the failure or  
8 refusal to file the report required under this subsection,  
9 the department shall determine the value of the property  
10 subject to valuation from the best information available.

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

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

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



1 unless required to be reported under Paragraph (3) of this  
2 subsection;

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

10 (4) reports required under Paragraphs (2)  
11 and (3) of this subsection shall be in a form and contain the  
12 information required by rules of the department.

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

20 D. Manufactured homes, livestock and land used for  
21 agricultural purposes shall be reported for valuation for  
22 property taxation purposes to the county assessor at the  
23 times and in the manner prescribed under Sections 7-36-26,  
24 7-36-21 and 7-36-20 NMSA 1978 and rules promulgated by the  
25 department.

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

11           F. Reports required by this section shall be made  
12 by the declarant under oath, and the secretary, employees of  
13 the department, the assessor and the assessor's employees are  
14 empowered to administer oaths for this purpose.

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

22           H. A person who fails to make a report required  
23 under the provisions of Subsection A or B of this section is  
24 liable for a civil penalty in an amount equal to five percent  
25 of the property taxes ultimately determined to be due on the

1 property for the tax year or years for which the person  
2 failed to make the required report.

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

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

1 the Property Tax Code, amounts collected pursuant to the  
2 penalty provided by this subsection shall be distributed  
3 among jurisdictions imposing tax on the property in the same  
4 proportion as the amount of tax ultimately determined to be  
5 due for the jurisdiction bears to the total due for all such  
6 jurisdictions.

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

15 L. For the purposes of this section:

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

24 (2) "owner of real property" includes every  
25 owner of improvements who does not own the land upon which

1 the improvements are made."

2 Section 3. APPLICABILITY.--The provisions of this act  
3 apply to property tax years beginning on or after January 1,  
4 2008.

5 Section 4. EFFECTIVE DATE.--The effective date of the  
6 provisions of this act is July 1, 2007. \_\_\_\_\_

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