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SENATE BILL 505

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

William H. Payne

AN ACT

RELATING TO TAXATION; CLARIFYING DEFINITIONS FOR COMMUNICATIONS
SYSTEMS PROPERTY SUBJECT TO VALUATION FOR PROPERTY TAX
PURPOSES.

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

Section 1. Section 7-36-30 NMSA 1978 (being Laws 1975,
Chapter 165, Section 11, as amended) is amended to read:

"7-36-30. SPECIAL METHODS OF VALUATION--PROPERTY THAT IS
PART OF A COMMUNICATIONS SYSTEM.--

A. All property that is part of a communications
system and is 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) "communications system" means a system

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1 used for the two-way transmission and reception of information,
2 including voice or data, by the use of electronic, magnetic or
3 optical means or any combination thereof and which system or
4 any portion thereof is available for use by another person for
5 consideration. "Communications system" does not include a
6 system used for one-way communication services such as
7 broadcast or video subscription services;

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

10 (3) "other justifiable factors" includes but
11 is not limited to wear and tear of the property not covered by
12 depreciation, inadequacy, changes in demand and requirements of
13 public authorities attributable to the applicable decrease in
14 value and functional or economic obsolescence;

15 (4) "plant" means all tangible property
16 located in this state and primarily used or useful for the
17 provision of communication service as reflected by the uniform
18 system of accounting in use by the taxpayer, but does not
19 include construction work in progress or materials and
20 supplies;

21 (5) "construction work in progress" means the
22 total of the balance of work orders for a plant in the process
23 of construction on the last day of the preceding calendar year,
24 exclusive of land and land rights;

25 (6) "tangible property cost" means the actual

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1 cost of acquisition or construction of property, including
2 additions, retirements, adjustments and transfers, but without
3 deduction of related accumulated provision for depreciation,
4 amortization or other purposes; and

5 (7) "materials and supplies" means the cost,
6 including sales, use and excise taxes, and transportation costs
7 to point of delivery in this state, less purchases and trade
8 discounts, of all unapplied materials and supplies on hand in
9 this state as of December 31 of the preceding calendar year.

10 C. Each taxpayer having property subject to
11 valuation under this section shall elect to have that property
12 valued by the department in accordance with either Subsection D
13 or Subsection F of this section. The election shall be
14 effective for subsequent property tax years, unless prior
15 permission of the secretary is obtained to change the election
16 for good cause shown. A taxpayer may not seek permission to
17 change an election, unless the prior election has been
18 effective for at least three consecutive property tax years.
19 The secretary shall find that good cause exists to change the
20 election upon a showing satisfactory to the secretary by the
21 taxpayer that:

22 (1) the net result of all amendments to the
23 property tax statutes and regulations with effective dates
24 commencing within the property tax year has a substantial
25 adverse effect on the valuation for property tax purposes under

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1 the alternative elected for the property for that year relative
2 to what the valuation for property tax purposes would have been
3 under the other alternative in the absence of the amendments;

4 (2) the net result of all changes in law or
5 circumstances but excluding acquisition or sale of property
6 subject to valuation under this section, including changes
7 [~~which~~] that do not affect property tax liability, occurring
8 within the property tax year has a substantial adverse effect
9 on the valuation for property tax purposes under the
10 alternative elected for the property for that year relative to
11 what the valuation for property tax purposes for the property
12 would have been under the other alternative in the absence of
13 the changes; or

14 (3) changes in property tax statutes or
15 regulations [~~which~~] that are effective prior to the property
16 tax year have a substantial adverse effect on the valuation for
17 property tax purposes under the alternative elected for the
18 property relative to what the valuation for property tax
19 purposes would have been under the other alternative.

20 D. Communications system property valued under this
21 subsection shall be valued in accordance with Paragraphs (1),
22 (2) and (3) of this subsection:

23 (1) a plant shall be valued in the following
24 manner:

25 (a) the department shall first establish

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1 the tangible property cost of the plant;

2 (b) from such tangible property cost
3 shall be deducted the related accumulated provision for
4 depreciation and other justifiable factors; and

5 (c) notwithstanding the foregoing
6 determination of value for property taxation purposes, the
7 value for property taxation purposes of the plant shall not be
8 less than twenty percent of the tangible property cost of the
9 plant;

10 (2) construction work in progress shall have a
11 value for property taxation purposes equal to fifty percent of
12 the actual amounts expended and entered upon the accounting
13 records of the taxpayer as of December 31 of the preceding
14 calendar year for construction work in progress; and

15 (3) the value of materials and supplies shall
16 be the tangible property cost for such property as of December
17 31 of the preceding calendar year.

18 E. Each item of property having a taxable situs in
19 the state and valued under this section shall have its net
20 taxable value allocated to the governmental units in which the
21 property is located.

22 F. Communications system property valued under this
23 subsection shall be valued using one or more or a combination
24 of the following methods of valuation and applying the unit
25 rule of appraisal to the property:

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- (1) capitalization of earnings;
- (2) market value of stock and debt; or
- (3) cost less depreciation and obsolescence.

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

Section 2. APPLICABILITY.--The provisions of this act
apply to the 2009 and subsequent property tax years.