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HOUSE BILL 297

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

INTRODUCED BY

John A. Heaton

AN ACT

RELATING TO TAXATION; EXEMPTING THE PERSONAL PROPERTY OF
NONPROFIT MUTUAL DOMESTIC WATER ASSOCIATIONS FROM PROPERTY
TAXATION.

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

Section 1. Section 7-36-28 NMSA 1978 (being Laws 1975,
Chapter 165, Section 9) is amended to read:

"7-36-28. SPECIAL METHOD OF VALUATION--PIPELINES, TANKS,
SALES METERS, PLANTS AND HYDRANTS USED IN THE TRANSMISSION,
STORAGE, MEASUREMENT OR DISTRIBUTION OF WATER.--

A. Except as provided in Subsection F of this
section, all pipelines, tanks, sales meters, plants and
hydrants used in the transmission, storage, measurement or
distribution of water subject to valuation for property
taxation purposes shall be valued in accordance with the

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1 provisions of this section.

2 B. As used in this section:

3 (1) "commercial water property" means
4 privately owned pipelines, tanks, sales meters, plants,
5 hydrants, materials and supplies, whether in service, in stock
6 or under construction, owned and operated as a utility for the
7 purpose of transmitting, storing, measuring or distributing
8 water for sale to the consuming public, excluding general
9 buildings and improvements;

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

12 (3) "general buildings and improvements" means
13 buildings of the nature of offices, residential housing,
14 warehouses, shops and associated improvements in general use by
15 the taxpayer but not directly associated with the transmission,
16 storage, measurement or distribution of water;

17 (4) "gallons" means the measurement of water
18 sold;

19 (5) "revenue" means gross utility operating
20 revenue;

21 (6) "closed system" means a commercial water
22 system in which water is gathered primarily by wells and stored
23 in closed reservoirs and tanks; and

24 (7) "combination system" means a commercial
25 water system in which water is gathered both in open reservoirs

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1 and by wells and is stored both in open reservoirs and closed
2 reservoirs and tanks.

3 C. The value of commercial water property shall be
4 determined as follows:

5 (1) a factor of two and forty-nine one
6 hundredths per thousand gallons is to be used for a closed
7 system and three and twenty-five one hundredths is to be used
8 for a combination system;

9 (2) the department shall determine the type of
10 system into which the taxpayer's commercial water properties
11 should be categorized;

12 (3) the department shall then ascertain the
13 number of thousand gallons sold to consumers by the taxpayer
14 during each of the three immediately preceding calendar years
15 and the taxpayer's revenue from the immediately preceding
16 calendar year;

17 (4) a simple average of the three-year
18 thousand gallon sales shall be computed and compared to the
19 actual thousand gallons sold to consumers during the
20 immediately preceding calendar year. The higher of the average
21 thousand gallons or the immediately preceding year's actual
22 thousand gallons shall be the basis for value calculations;

23 (5) the thousand gallon figure determined in
24 Paragraph (4) of this subsection shall then be multiplied by
25 the appropriate per thousand gallon factor from Paragraph (1)

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1 of this subsection. The result of this calculation is the
2 value of commercial water property for property taxation
3 purposes; and

4 (6) notwithstanding the calculations provided
5 for above, the value of the taxpayer's commercial water
6 property shall not be greater than four and one-half times the
7 revenue derived during the immediately preceding calendar year
8 from the operation of the commercial water property.

9 D. Each item of property having a taxable situs in
10 the state and valued under this section shall have its net
11 taxable value allocated to the governmental units in which the
12 property is located on the basis of the percentage of the
13 taxpayer's total investment in each governmental unit.

14 E. The department shall adopt regulations [~~under~~
15 ~~Section 72-31-88 NMSA 1953~~] to implement the provisions of this
16 section.

17 F. Commercial water property owned or sold by a
18 nonprofit mutual domestic water association is exempt from
19 valuation for property taxation purposes."

20 Section 2. APPLICABILITY.--The provisions of this act
21 apply to taxable years beginning on or after January 1, 2010.