

CHAPTER 268

TAXATION

SENATE BILL 02-157

BY SENATOR(S) Isgar and Taylor;
also REPRESENTATIVE(S) Alexander, Harvey, Hoppe, Mace, and Rippy.

AN ACT**CONCERNING THE TAXATION OF POSSESSORY INTERESTS IN EXEMPT REAL PROPERTY.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. The introductory portion to 39-1-103 (17) (a), Colorado Revised Statutes, is amended to read:

39-1-103. Actual value determined - when. (17) (a) ~~Notwithstanding section 39-3-136 and the repeal of section 39-3-135, if the Colorado supreme court holds that the Colorado constitution requires that possessory interests in exempt land, improvements, or personal property be taxed;~~ The general assembly declares that the valuation of possessory interests in exempt properties is uncertain and highly speculative and that the following specific standards for the appropriate consideration of the cost approach, the market approach, and the income approach to appraisal in the valuation of possessory interests must be provided by statute and applied in the valuation of possessory interests to eliminate the unjust and unequalized valuations that would result in the absence of specific standards:

SECTION 2. 39-1-106, Colorado Revised Statutes, is amended to read:

39-1-106. Partial interests not subject to separate tax. For purposes of property taxation, it shall make no difference that the use, possession, or ownership of any taxable property is qualified, limited, not the subject of alienation, or the subject of levy or distraint separately from the particular tax derivable therefrom. Severed mineral interests shall also be taxed. ~~Nothing in this section shall be construed to direct the taxation of possessory interests in real or personal property that are not subject to taxation in accordance with section 39-3-136 (2).~~

SECTION 3. 39-1-107, Colorado Revised Statutes, is amended BY THE

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

ADDITION OF A NEW SUBSECTION to read:

39-1-107. Tax liens. (4) THE PROPERTY TAX ON A POSSESSORY INTEREST IN REAL OR PERSONAL PROPERTY THAT IS EXEMPT FROM TAXATION UNDER THIS ARTICLE SHALL BE ASSESSED TO THE HOLDER OF THE POSSESSORY INTEREST AND COLLECTED IN THE SAME MANNER AS PROPERTY TAXES ASSESSED TO OWNERS OF REAL OR PERSONAL PROPERTY; EXCEPT THAT SUCH PROPERTY TAX SHALL NOT BECOME A LIEN AGAINST THE PROPERTY. WHEN DUE, THE PROPERTY TAX SHALL BE A DEBT DUE FROM THE HOLDER OF THE POSSESSORY INTEREST TO THE BOARD OF COUNTY COMMISSIONERS FOR THE COUNTY IN WHICH SUCH PROPERTY IS LOCATED OR TO SUCH OTHER BODY AS IS AUTHORIZED BY LAW TO LEVY PROPERTY TAXES, AND SHALL BE RECOVERABLE BY SUCH BOARD OR BODY BY DIRECT ACTION IN DEBT ON BEHALF OF EACH GOVERNMENTAL ENTITY FOR WHICH A PROPERTY TAX LEVY HAS BEEN MADE.

SECTION 4. 39-10-101 (2) (a) (II), Colorado Revised Statutes, is amended to read:

39-10-101. Collection of taxes. (2) (a) (II) Notwithstanding subparagraph (I) of this paragraph (a) or section 39-5-125, NEITHER THE ASSESSOR NOR the treasurer shall ~~not~~ treat any possessory interest in exempt property as ~~described in section 39-3-136 (1) (a)~~; as taxable property omitted from the tax list and warrant for any PROPERTY TAX year ~~if the exclusion of the possessory interest from the assessment roll was based upon any provision of law created or repealed by Senate Bill 96-218, as enacted by the second regular session of the sixtieth general assembly, to clarify that possessory interests in exempt properties are subject to property taxation only if specific statutory provisions have been enacted directing the taxation of such possessory interests~~ PRIOR TO 2001.

SECTION 5. 43-1-1504, Colorado Revised Statutes, is amended to read:

43-1-1504. Possessory interests in transfer facilities - taxation. ~~Notwithstanding section 39-3-136, C.R.S., if the Colorado supreme court rules that the Colorado constitution requires that possessory interests in exempt land, improvements, and personal property be subject to property taxation,~~ Any person obtaining a possessory interest in any portion of a transfer facility located on property that is owned by the department for the provision of retail or commercial goods or services pursuant to this section shall be deemed in control of that portion of the facility and shall be subject to property taxation to the extent of the person's possessory interest in that portion of the facility.

SECTION 6. Repeal. 39-3-136, Colorado Revised Statutes, is repealed.

SECTION 7. Effective date - applicability. (1) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a

referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) The provisions of this act shall apply to property tax years commencing on or after January 1, 2001.

Approved: June 1, 2002