

CHAPTER 203

TAXATION

SENATE BILL 94-080

BY SENATOR Hopper;
also REPRESENTATIVES Taylor, Williams, Anderson, and Reeser.

AN ACT

CONCERNING VALUATION FOR ASSESSMENT OF PRODUCING MINES FOR PROPERTY TAX PURPOSES.

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

SECTION 1. 39-6-106 (1) (c), (1) (d), (1) (e), (1) (g), and (1) (h), Colorado Revised Statutes, 1982 Repl. Vol., are amended, and the said 39-6-106, as amended, is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

39-6-106. Valuation for assessment of producing mines. (1) Every person owning or operating any mine classified as a producing mine shall, no later than the fifteenth day of April of each year, prepare, sign under the penalty of perjury in the second degree, and file with the assessor of the county wherein such mine is located a statement showing:

(c) The total number of acres contained in such mine AND, IF SUCH MINE IS LOCATED IN MORE THAN ONE COUNTY, THE TOTAL NUMBER OF ACRES CONTAINED IN SUCH MINE IN EACH COUNTY;

(d) The number of tons of ore extracted therefrom during the calendar year immediately preceding AND, IF THE VALUE OF THE PRODUCTS DERIVED FROM THE ORE IS USED IN DETERMINING GROSS VALUE, THE NUMBER OF TONS, POUNDS, OR OUNCES OF PRODUCTS DERIVED FROM THE ORE;

(e) The gross value from production of the ore extracted during said calendar year, which means and includes the amount for which ore or ~~any~~ THE FIRST SALABLE products derived therefrom were or could be sold by the owner or operator of a mine, AS DETERMINED USING ACTUAL GROSS SELLING PRICES;

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

(g) The costs of treatment, reduction, transportation, and sale of such ore or ~~any~~ THE FIRST SALABLE products derived therefrom;

(h) The gross proceeds from production of such ore, which means and includes the value of the ore immediately after extraction, which value may be determined by deducting from gross value all costs of treatment, reduction, transportation, and sale of such ore or ~~any~~ THE FIRST SALABLE products derived therefrom;

(1.4) (a) THE OWNER OR OPERATOR OF A PRODUCING MINE MAY REQUEST PERMISSION TO STATE AN AVERAGE FIGURE FOR THE ITEMS REQUIRED BY PARAGRAPHS (d) TO (i) OF SUBSECTION (1) OF THIS SECTION BASED ON EITHER THE THREE- OR FIVE-YEAR PERIOD IMMEDIATELY PRECEDING JANUARY 1 OF THE YEAR IN WHICH THE STATEMENT MUST BE FILED. THE SAME REPORTING METHOD SHALL BE USED FOR ALL ANNUAL STATEMENTS FILED IN A SINGLE YEAR PERTAINING TO A PARTICULAR MINE.

(b) (I) THE OWNER OR OPERATOR MAY MAKE AN INITIAL REQUEST PURSUANT TO THIS SUBSECTION (1.4) BY FILING THE REQUEST WITH THE BOARD OF COUNTY COMMISSIONERS OF EACH COUNTY IN WHICH THE MINE IS LOCATED AT LEAST FORTY-FIVE DAYS PRIOR TO THE REPORTING DATE SPECIFIED IN THE INTRODUCTORY PORTION TO SUBSECTION (1) OF THIS SECTION AND ATTACHING A COPY OF THE REQUEST TO THE ANNUAL STATEMENT FILED PURSUANT TO SUBSECTION (1) OF THIS SECTION WITH THE COUNTY ASSESSOR OF EACH COUNTY IN WHICH THE MINE IS LOCATED.

(II) THE OWNER OR OPERATOR MAY MAKE SUBSEQUENT CHANGES IN THE REPORTING METHOD PURSUANT TO THIS SUBSECTION (1.4) BY FILING A REQUEST FOR A CHANGE IN THE REPORTING METHOD WITH THE BOARD OF COUNTY COMMISSIONERS AND THE COUNTY ASSESSOR OF EVERY COUNTY IN WHICH THE MINE IS LOCATED AT LEAST FORTY-FIVE DAYS PRIOR TO THE REPORTING DATE SPECIFIED IN THE INTRODUCTORY PORTION TO SUBSECTION (1) OF THIS SECTION.

(III) THE BOARD OF COUNTY COMMISSIONERS OF EACH COUNTY WHICH RECEIVES A REQUEST PURSUANT TO THIS SUBSECTION (1.4) SHALL APPROVE OR DENY THE REQUEST AT LEAST THIRTY DAYS PRIOR TO THE REPORTING DATE SPECIFIED IN THE INTRODUCTORY PORTION TO SUBSECTION (1) OF THIS SECTION. FAILURE OF A BOARD OF COUNTY COMMISSIONERS TO APPROVE OR DENY THE REQUEST WITHIN THE THIRTY DAYS SHALL BE DEEMED AN APPROVAL OF THE REQUEST.

(c) ONCE AN OWNER OR OPERATOR HAS MADE THE INITIAL ELECTION ALLOWED BY THIS SUBSECTION (1.4), THE OWNER OR OPERATOR SHALL FILE ALL SUBSEQUENT ANNUAL STATEMENTS PURSUANT TO SUBSECTION (1) OF THIS SECTION USING THE SAME REPORTING METHOD. THE OWNER OR OPERATOR SHALL NOT ALTER THE REPORTING METHOD UNTIL THE BOARD OF COUNTY COMMISSIONERS FOR EVERY COUNTY IN WHICH THE MINE IS LOCATED AUTHORIZES THE USE OF THE ALTERNATE METHOD.

(d) THE FACT THAT AUTHORIZATION TO ALTER THE REPORTING METHOD HAS NOT BEEN RECEIVED FROM ALL OR ANY OF THE BOARDS OF COUNTY COMMISSIONERS FOR THE COUNTIES IN WHICH THE MINE IS LOCATED SHALL NOT RELIEVE THE OWNER OR OPERATOR FROM THE OBLIGATION TO FILE THE ANNUAL STATEMENT PURSUANT TO

SUBSECTION (1) OF THIS SECTION WITH ALL COUNTIES IN WHICH THE MINE IS LOCATED.

(1.7) AS USED IN SUBSECTION (1) OF THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) (I) "COSTS" MEANS THOSE COSTS DIRECTLY ATTRIBUTABLE TO THE OPERATION OF THE PRODUCING MINE AND TO THE TREATMENT, REDUCTION, TRANSPORTATION, OR SALE OF THE ORE AND INCLUDES, BUT IS NOT LIMITED TO, ALLOCATION OF:

(A) THE COSTS OF CAPITAL ASSETS, WHICH ONLY INCLUDE THOSE EXPENDITURES LISTED ON THE FIXED ASSET RECORDS OF THE MINE;

(B) PREPRODUCTION DEVELOPMENT COSTS AMORTIZED OVER THE LIFE OF THE MINE; AND

(C) OFF-SITE COSTS DIRECTLY ATTRIBUTABLE TO THE OPERATION OF THE PRODUCING MINE OR TO THE TREATMENT, REDUCTION, TRANSPORTATION, OR SALE OF THE ORE; HOWEVER, IN NO EVENT SHALL OFF-SITE COSTS INCLUDE COMPENSATION OF ANY OFFICER OR AGENT NOT ACTIVELY AND CONTINUOUSLY ENGAGED IN OR ABOUT THE MINE.

(II) ALLOCATION OF THE COSTS OF CAPITAL ASSETS PURSUANT TO THIS PARAGRAPH (a) SHALL BE DONE IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES. NO CHANGE IN THE ALLOCATION METHOD MAY BE MADE WITHOUT THE PRIOR APPROVAL OF THE COUNTY BOARDS OF EQUALIZATION IN ALL COUNTIES IN WHICH THE MINE IS LOCATED.

(b) "COSTS" DOES NOT INCLUDE:

(I) ANY AMOUNTS DESIGNATED AS PROFIT OR MARGIN WHICH ARE ATTRIBUTABLE TO ANY PART OF THE TREATMENT, REDUCTION, TRANSPORTATION, OR SALE OF THE ORE; OR

(II) ANY AMOUNTS WHICH HAVE BEEN OR COULD HAVE BEEN DEDUCTED PREVIOUSLY AS PART OF THE VALUATION OF THE PRODUCING MINE PURSUANT TO THIS SECTION.

(5) ANY INCREASE IN THE VALUATION OF A PRODUCING MINE SHALL CONSTITUTE AN ADDITION TO TAXABLE REAL PROPERTY FOR PURPOSES OF THE DEFINITION OF "LOCAL GROWTH" CONTAINED IN SECTION 20 (2) (g) OF ARTICLE X OF THE STATE CONSTITUTION.

(6) THIS SECTION SHALL APPLY TO AND AFFECT ONLY THE VALUATION OF PRODUCING MINES PURSUANT TO ARTICLE 6 OF THIS TITLE.

SECTION 2. 39-6-107, Colorado Revised Statutes, 1982 Repl. Vol., is amended to read:

39-6-107. Valuation of improvements, machinery. All machinery and equipment AND personal property SHALL BE LISTED ON A PERSONAL PROPERTY SCHEDULE WHICH SHALL BE SUBMITTED AS SET FORTH IN SECTION 39-5-107 AND

VALUED FOR ASSESSMENT BY THE ASSESSOR. ~~and~~ Improvements, except mining improvements within a mine excavation, shall be LISTED separately AND valued for assessment BY THE ASSESSOR.

SECTION 3. 39-6-109, Colorado Revised Statutes, 1982 Repl. Vol., is amended to read:

39-6-109. Assessor to examine books, records. (1) The assessor has the authority and right at any time to examine the books, accounts, and records of any person owning, managing, or operating a producing mine in order to verify the statement filed by such person, and, if from such examination ~~he~~ THE ASSESSOR finds such statement or any material part thereof to be willfully false or misleading, ~~he~~ THE ASSESSOR shall proceed to value such producing mine for assessment as though no statement had been filed.

(2) UPON THE REQUEST OF THE ASSESSOR, THE OWNER OR OPERATOR OF A PRODUCING MINE SHALL PROVIDE TO THE ASSESSOR ALL DOCUMENTATION SUPPORTING THE AMOUNTS REPORTED ON THE STATEMENT FILED BY SUCH OWNER OR OPERATOR.

(3) THE DIVISION OF PROPERTY TAXATION SHALL SET FORTH GUIDELINES FOR THE IMPLEMENTATION OF THIS SECTION.

SECTION 4. 39-6-113 (3), Colorado Revised Statutes, 1982 Repl. Vol., as amended, is amended, and the said 39-6-113 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

39-6-113. Mine in more than one county. (3) Where a mine is situated partly in one county and partly in another county or counties or in lesser political subdivisions, the owner, operator, or manager thereof shall, no later than the fifteenth day of April of each year, prepare and file with the assessor of each such county a statement showing the number of acres within each such county contained in the lands comprising the mining property of the mine, determined as provided for in sections 39-6-103 and 39-6-106, but the statement need not be filed if no changes have occurred since such a statement was ~~theretofore~~ filed.

(4) (a) NOTHING IN SUBSECTION (3) OF THIS SECTION SHALL BE CONSTRUED TO REQUIRE THE OWNER, OPERATOR, OR MANAGER OF A MINE TO FILE AN ADDITIONAL STATEMENT IF THE STATEMENT FILED PURSUANT TO SECTION 39-6-106 SETS FORTH THE NUMBER OF ACRES OF THE MINE IN EACH COUNTY.

(b) NOTHING IN SUBSECTION (3) OF THIS SECTION SHALL BE CONSTRUED TO RELIEVE THE OWNER, OPERATOR, OR MANAGER OF A MINE FROM ANY REPORTING RESPONSIBILITIES IMPOSED UNDER SECTION 39-6-106, INCLUDING THE REQUIRED CONTENTS OF THE STATEMENT FILED WITH THE ASSESSOR.

SECTION 5. Article 6 of title 39, Colorado Revised Statutes, 1982 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

39-6-117. County boards of equalization - authority. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO AFFECT THE AUTHORITY OF COUNTY BOARDS OF

EQUALIZATION TO RAISE, LOWER, OR ADJUST ANY VALUATION FOR ASSESSMENT APPEARING IN THE ASSESSMENT ROLL AS PROVIDED IN SECTION 39-8-102 (1).

SECTION 6. Severability. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 7. Applicability. This act shall apply to property tax years commencing on or after January 1, 1994.

SECTION 8. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 19, 1994