

CHAPTER 138

TAXATION

HOUSE BILL 96-1058

BY REPRESENTATIVES Martin, Tool, Schwarz, and Swenson;
also SENATOR Schroeder.

AN ACT

CONCERNING THE ABATEMENT AND REFUND OF PROPERTY TAXES.

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

SECTION 1. 39-1-113 (3), Colorado Revised Statutes, 1994 Repl. Vol., is amended to read:

39-1-113. Abatement and refund of taxes. (3) Whenever any abatement or refund in an amount in excess of one thousand dollars is recommended by the board of county commissioners, TWO COPIES OF an application therefor, reciting the amount of such abatement or refund and the grounds upon which it should be allowed, shall be submitted to the administrator for his review pursuant to section 39-2-116. If an application is approved, the board of county commissioners shall order the abatement of taxes pro rata for all levies applicable to such property, or, in the case of a refund, the board of county commissioners shall order the refund of taxes pro rata by all taxing jurisdictions receiving payment thereof.

SECTION 2. 39-2-109 (1) (d), Colorado Revised Statutes, 1994 Repl. Vol., is amended to read:

39-2-109. Duties, powers, and authority. (1) It is the duty of the property tax administrator, and ~~he~~ THE ADMINISTRATOR shall have and exercise authority:

(d) To approve the form and size of all personal property schedules, forms, and notices furnished or sent by assessors to owners of taxable property, THE FORM OF PETITIONS FOR ABATEMENT OR REFUND, the form of all field books, plat and block books, maps, and appraisal cards used in the office of the assessor and other forms and records used and maintained by the assessor and to require exclusive use of such

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

approved schedules, books, maps, appraisal cards, forms, and records by all assessors to insure uniformity;

SECTION 3. 39-4-103 (1.5), Colorado Revised Statutes, 1994 Repl. Vol., is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

39-4-103. Schedules of property - confidential records - late filing penalties.

(1.5) (c) IF A PUBLIC UTILITY FAILS TO FILE A STATEMENT OF PROPERTY AND DOES NOT FILE A PETITION OR COMPLAINT PURSUANT TO SECTION 39-4-108 REGARDING THE ACTUAL VALUE OF ITS TAXABLE PROPERTY AS DETERMINED ON THE BASIS OF THE BEST INFORMATION AVAILABLE PURSUANT TO THIS SUBSECTION (1.5), THE PUBLIC UTILITY SHALL BE DEEMED TO HAVE WAIVED ANY RIGHT TO FILE AN ABATEMENT OR REFUND PETITION REGARDING SUCH ACTUAL VALUE PURSUANT TO SECTION 39-10-114.

SECTION 4. 39-10-114 (1) (a) (I) (D), Colorado Revised Statutes, 1994 Repl. Vol., is amended to read:

39-10-114. Abatement, cancellation of taxes. (1) (a) (I) (D) ~~Except as provided in sub-subparagraph (E) of this subparagraph (I), an abatement or refund of taxes based upon the grounds of overvaluation of property shall be made only for taxes levied on and after January 1, 1988. With regard to petitions filed prior to June 5, 1991, an abatement or refund may be made pursuant to this section if, on June 5, 1991, such petition is pending or upon which a final administrative order or court judgment has been issued on the grounds that overvaluation of property was not grounds for an abatement or refund of taxes. With regard to petitions which have been denied on such grounds, petitions for abatement or refund of taxes may be refiled pursuant to this sub-subparagraph (D) on or before December 31, 1991. No abatement or refund of taxes levied on and after January 1, 1990; shall be made based upon the ground of overvaluation of property if an objection or protest to such valuation has been made and a notice of determination has been mailed to the taxpayer pursuant to section 39-5-122; EXCEPT THAT THIS PROHIBITION SHALL NOT APPLY TO PERSONAL PROPERTY WHEN A NOTICE OF DETERMINATION HAS BEEN MAILED TO THE TAXPAYER, AN OBJECTION OR PROTEST IS WITHDRAWN OR NOT PURSUED, AND THE COUNTY ASSESSOR HAS UNDERTAKEN AN AUDIT OF SUCH PERSONAL PROPERTY THAT SHOWS THAT A REDUCTION IN VALUE IS WARRANTED.~~

SECTION 5. 39-10-114 (1) (a) (I) (E), Colorado Revised Statutes, 1994 Repl. Vol., is amended to read:

39-10-114. Abatement, cancellation of taxes. (1) (a) (I) (E) Notwithstanding the periods of limitation for filing a petition for and determining the amount of an abatement or refund of taxes provided in sub-subparagraphs (A) and (D) of this subparagraph (I), when an audit of prior years' taxes for the period described in section 39-10-101 (2) (b) discloses that taxes are due and owing ON PERSONAL PROPERTY OR on mines and on oil and gas leaseholds, such taxes shall be subtracted from any overpayment of such taxes determined to be due pursuant to this subparagraph (I) for any years during such period and prior to computing delinquent interest.

SECTION 6. 39-10-114.5 (2), Colorado Revised Statutes, 1994 Repl. Vol., is amended to read:

39-10-114.5. Decision - review - judicial review. (2) If the petitioner has appealed to the board of assessment appeals and the decision of the board of assessment appeals is against the petitioner, ~~he~~ THE PETITIONER may petition the court of appeals for judicial review according to the Colorado appellate rules and the provisions of section 24-4-106 (11), C.R.S. If the decision of the board is against the respondent, the respondent, upon the recommendation of the board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation for assessment of the county wherein the property is located, may petition the court of appeals for judicial review according to the Colorado appellate rules and the provisions of section 24-4-106 ~~(9)~~ (11), C.R.S. In addition, if the decision of the board is against the respondent, the respondent may petition the court of appeals for judicial review of alleged procedural errors or errors of law when the respondent alleges procedural errors or errors of law by the board of assessment appeals. If the board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation for assessment of the county in which the property is located, the respondent may petition the court of appeals for judicial review of such questions.

SECTION 7. Effective date - applicability. This act shall take effect upon passage and section 4 of this act shall apply to all petitions for abatement or refund of taxes that are pending before a board of county commissioners or the board of assessment appeals on said date.

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 1, 1996