

CHAPTER 151

TAXATION

HOUSE BILL 96-1063

BY REPRESENTATIVES Tool, Reeves, and Martin;
also SENATOR Alexander.

AN ACT**CONCERNING CHANGES TO PROPERTY TAX LAWS REQUIRED TO IMPLEMENT SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION.**

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

SECTION 1. 39-1-103 (5) (a) and (8) (a) (I), Colorado Revised Statutes, 1994 Repl. Vol., as amended, are amended to read:

39-1-103. Actual value determined - when. (5) (a) All real and personal property shall be appraised and the actual value thereof for property tax purposes determined by the assessor of the county wherein such property is located. The actual value of such property, other than agricultural lands exclusive of building improvements thereon and other than residential real property and other than producing mines and lands or leaseholds producing oil or gas, shall be that value determined by appropriate consideration of the cost approach, the market approach, and the income approach to appraisal. The assessor shall consider and document all elements of such approaches that are applicable prior to a determination of actual value. Despite any orders of the state board of equalization, no assessor shall arbitrarily increase the valuations for assessment of all parcels represented within the abstract of a county or within a class or subclass of parcels on that abstract by a common multiple in response to the order of said board. If an assessor is required, pursuant to the order of said board, to increase or decrease valuations for assessment, such changes shall be made only upon individual valuations for assessment of each and every parcel, using each of the approaches to appraisal specified in this paragraph (a), if applicable. The actual value of agricultural lands, exclusive of building improvements thereon, shall be determined by consideration of the earning or productive capacity of such lands during a reasonable period of time, capitalized at a rate of thirteen percent. Land that is valued as agricultural and that becomes

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

subject to a perpetual conservation easement shall continue to be valued as agricultural notwithstanding its dedication for conservation purposes; except that, if any portion of such land is actually used for nonagricultural commercial or residential purposes, that portion shall be valued according to such use. The actual value of residential real property shall be determined solely by consideration of ~~the cost approach and~~ the market approach to appraisal. The valuation for assessment of producing mines and of lands or leaseholds producing oil or gas shall be determined pursuant to articles 6 and 7 of this title.

(8) In any case in which sales prices of comparable properties within any class or subclass are utilized when considering the market approach to appraisal in the determination of actual value of any taxable property, the following limitations and conditions shall apply:

(a) (I) Use of the market approach shall require a representative body of sales, INCLUDING SALES BY A LENDER OR GOVERNMENT, sufficient to set a pattern, and appraisals shall reflect due consideration of the degree of comparability of sales, including the extent of similarities and dissimilarities among properties that are compared for assessment purposes. In order to obtain a reasonable sample and to reduce sudden price changes or fluctuations, all sales shall be included in the sample that reasonably reflect a true or typical sales price during the period specified in section 39-1-104 (10.2). Sales of personal property exempt pursuant to the provisions of sections 39-3-102, 39-3-103, and 39-3-119 to 39-3-122 shall not be included in any such sample.

SECTION 2. 39-1-111 (5), Colorado Revised Statutes, 1994 Repl. Vol., is amended to read:

39-1-111. Taxes levied by board of county commissioners. (5) If, after certification of the valuation for assessment pursuant to section 39-5-128 AND NOTIFICATION OF TOTAL ACTUAL VALUE PURSUANT TO SECTION 39-5-121 (2) (b) but prior to December 10, changes in such valuation for assessment OR TOTAL ACTUAL VALUE are made by the assessor, the assessor shall send a single notification to the board of county commissioners or other body authorized by law to levy property taxes, to the division of local government, and to the department of education ~~which~~ THAT includes all of such changes ~~which~~ THAT have occurred during said specified period of time. Upon receipt of such notification, such board or body shall make adjustments in the tax levies to ensure compliance with section 29-1-301, C.R.S., if applicable, and may make adjustments in order that the same amount of revenue be raised. A copy of any adjustment to tax levies shall be transmitted to the administrator and assessor. Nothing in this subsection (5) shall be construed as conferring the authority to exceed statutorily imposed mill levy or revenue-raising limits.

SECTION 3. 39-4-107, Colorado Revised Statutes, 1994 Repl. Vol., is amended to read:

39-4-107. Statement of valuation to counties. No later than ~~the first day of July~~ JULY 1 in each year, the administrator shall advise both the assessor of each county wherein property of a public utility is located and the public utility itself of the ~~amount of valuation for assessment~~ of such public utility in such county, and such

amount shall be entered on the tax roll of such county by the assessor in the same manner as though determined by ~~him~~ THE ASSESSOR.

SECTION 4. 39-4-108 (2), (6), and (8), Colorado Revised Statutes, 1994 Repl. Vol., are amended to read:

39-4-108. Complaint - hearing - decision. (2) Any assessor or board of county commissioners, being of the opinion that the actual value of the property and plant of any public utility as determined by the administrator is illegal, erroneous, or not uniform with the actual value of like property similarly situated, as determined by the administrator, or that the amount of valuation ~~for assessment~~ of any public utility has not been correctly apportioned among the counties entitled thereto may, no later than July 15, file a petition or complaint with the administrator setting forth such illegality, error, lack of uniformity, or incorrect apportionment.

(6) If the administrator grants the petition, in whole or in part, ~~he~~ THE ADMINISTRATOR shall make the appropriate corrections or changes in the valuation ~~for assessment~~ of such public utility, or in the apportionment thereof, and shall certify the same to the assessor of the county affected thereby. Such decision shall control all proceedings thereafter, the same as though originally certified by the administrator.

(8) Further proceedings brought by a party adversely affected by the administrator's decision shall be before the board of assessment appeals under the provisions of section 39-2-125 WITH NO PRESUMPTION IN FAVOR OF ANY PENDING VALUATION, and no judicial review shall be available to any party under the provisions of section 39-4-109 until the board has rendered its decision.

SECTION 5. 39-5-121 (1) and (1.5), Colorado Revised Statutes, 1994 Repl. Vol., are amended, and the said 39-5-121 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

39-5-121. Notice of valuation - legislative declaration. (1) No later than May 1 in each year, the assessor shall mail to each person ~~whose~~ WHO OWNS land or improvements ~~have been valued at an amount different than the same were valued in the previous year~~ a notice setting forth the amount of such adjustment in valuation OF SUCH LAND OR IMPROVEMENTS. FOR AGRICULTURAL PROPERTY, the notice shall SEPARATELY state the actual value of such land or improvements in the previous year, the actual value in the current year, and the amount of ~~such~~ ANY adjustment in actual value. FOR ALL OTHER PROPERTY, THE NOTICE SHALL STATE THE TOTAL ACTUAL VALUE OF SUCH LAND AND IMPROVEMENTS TOGETHER IN THE PREVIOUS YEAR, THE TOTAL ACTUAL VALUE IN THE CURRENT YEAR, AND THE AMOUNT OF ANY ADJUSTMENT IN TOTAL ACTUAL VALUE. The notice shall not state the valuation for assessment of such land or improvements OR COMBINATION OF LAND AND IMPROVEMENTS. Based upon the classification of such taxable property, the notice shall also set forth either the ratio of valuation for assessment to be applied to said actual value of all taxable real property other than residential real property prior to the calculation of property taxes for the current year or the projected ratio of valuation for assessment to be applied to said actual value of residential real property prior to the calculation of property taxes for the current year and that any change or adjustment of the projected ratio of valuation for assessment for residential real property shall not constitute

grounds for the protest or abatement of taxes. With the approval of the board of county commissioners, the assessor may include in the notice an estimate of the taxes ~~which~~ THAT shall be owed for the current property tax year. If such estimate is included, the notice shall clearly state that the tax amount is merely an estimate based upon the best available information. The notice shall state, in bold-faced type, that the taxpayer has the right to protest ~~such~~ ANY adjustment in valuation but not the estimate of taxes if such an estimate is included in the notice, the classification of the property ~~which~~ THAT determines the assessment percentage to be applied, and the dates and places at which the assessor will hear such protest. Such notice shall also set forth the following: That, to preserve ~~his~~ THE TAXPAYER'S right to protest, the taxpayer must notify the assessor either by mail or in person of ~~his~~ THE TAXPAYER'S objection and protest; that, if notice is made by mail, such notice must be postmarked no later than May 27 and that, if notice is made in person, such notice must be made no later than June 1; and that, after such date, the taxpayer's right to object and protest the adjustment in valuation is lost. The notice shall be mailed together with a form ~~which~~ THAT, if completed by the taxpayer, allows the taxpayer to explain the basis for ~~his~~ THE TAXPAYER'S valuation of the property. Such form may be completed by the taxpayer to initiate an appeal of the assessor's valuation. However, in accordance with section 39-5-122 (2), completion of this form shall not constitute the exclusive means of appealing the assessor's valuation. For the years ~~which~~ THAT intervene between changes in the level of value, if the difference between the actual value of such land or improvements in the previous year and the actual value of such land or improvements in the intervening year as set forth in such notice constitutes an increase in actual value of more than seventy-five percent, the assessor shall mail together with the notice an explanation of the reasons for such increase in actual value.

(1.2) A NOTICE OF VALUATION INCLUDED WITH THE TAX BILL SHALL FULFILL THE REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION. THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT THE NOTICE PROCEDURE SET FORTH IN THIS SUBSECTION (1.2) FACILITATES THE EFFICIENT AND ECONOMIC OPERATION OF LOCAL GOVERNMENTS, CONSISTENT WITH THE EXPRESSED PURPOSE OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION TO REASONABLY RESTRAIN MOST THE GROWTH OF GOVERNMENT, AND STILL FULFILLS THE PURPOSES OF SECTION 20 (8) (c) OF SAID ARTICLE X IN THE INTERVENING YEAR OF EACH REASSESSMENT CYCLE WHEN THERE IS NO CHANGE IN VALUE FOR THE PROPERTY IN SUCH YEAR.

(1.5) No later than June 15 in each year, the assessor shall mail to each person ~~whose~~ WHO OWNS taxable personal property ~~has been valued at an amount different than that returned by him in his personal property schedule~~ a notice setting forth the ~~amount of such adjustment in~~ valuation OF SUCH PERSONAL PROPERTY. The notice shall state the actual value of such personal property in the previous year, the actual value in the current year, and the amount of ~~such~~ ANY adjustment in actual value. The notice shall not state the valuation for assessment of such personal property. The notice shall also set forth the ratio of valuation for assessment to be applied to said actual value prior to the calculation of property taxes for the current year. With the approval of the board of county commissioners, the assessor may include in the notice an estimate of the taxes ~~which~~ THAT shall be owed for the current property tax year. If such an estimate is included, the notice shall clearly state that the tax amount is merely an estimate based upon the best available information. The notice shall state, in bold-faced type, that the taxpayer has the right to protest ~~such~~ ANY adjustment in

valuation but not the estimate of taxes if such an estimate is included in the notice, and the dates and places at which the assessor will hear such protest. Such notice shall also set forth the following: To preserve ~~his~~ THE TAXPAYER'S right to protest, the taxpayer must notify the assessor either by mail or in person of ~~his~~ THE TAXPAYER'S objection and protest; that, if notice is made by mail, such notice must be postmarked no later than June 30 and that, if notice is made in person, such notice must be made no later than July 5; and that, after such date, the taxpayer's right to object and protest the adjustment in valuation is lost. The notice shall be mailed together with a form ~~which~~ THAT, if completed by the taxpayer, allows the taxpayer to explain the basis for ~~his~~ THE TAXPAYER'S valuation of the property. Such form may be completed by the taxpayer to initiate an appeal of the assessor's valuation. However, in accordance with section 39-5-122 (2), completion of this form shall not constitute the exclusive means of appealing the assessor's valuation.

SECTION 6. 39-8-107 (1), Colorado Revised Statutes, 1994 Repl. Vol., is amended to read:

39-8-107. Hearings on appeal. (1) At the hearing upon a petition, the assessor or ~~his~~ THE ASSESSOR'S authorized representative shall be present and shall produce information to support the basis and amount of ~~his~~ THE ASSESSOR'S valuation of the property. The board shall hear and consider all testimony and examine all exhibits produced or introduced by either the petitioner or the assessor, WITH NO PRESUMPTION IN FAVOR OF ANY PENDING VALUATION, and may subpoena witnesses to testify. The costs of producing ~~his~~ THE PETITIONER'S witnesses shall be paid by the petitioner, and the costs of producing the assessor's witnesses shall be paid by the county. On the basis of the testimony produced and the exhibits introduced, the board shall grant or deny the petition, in whole or in part, and shall notify the petitioner and the assessor in writing. If the board denies the petition, in whole or in part, such written notice shall inform the petitioner of the right to appeal within the thirty-day period following the denial to the district court or the board of assessment appeals pursuant to the provisions of section 39-8-108 (1) or within the thirty-day period following the denial to submit ~~his~~ THE case to arbitration pursuant to the provisions of section 39-8-108.5. Such notice shall state that, if the appeal is to the board of assessment appeals, the hearing before the board of assessment appeals shall be the last hearing at which testimony, exhibits, or any other type of evidence may be introduced by either party and that, if there is an appeal to the court of appeals pursuant to section 39-8-108 (2), the record from the hearing before the board of assessment appeals and no new evidence shall be the basis for the court's decision. The phone number and address of the board of assessment appeals shall also be included on the notice. The notice shall also state, in general terms, how to pursue arbitration and that, if a taxpayer submits ~~his~~ THE case to arbitration, the decision reached under such process shall be final and not subject to review.

SECTION 7. 39-8-108 (1), (2), and (5) (a), Colorado Revised Statutes, 1994 Repl. Vol., are amended, and the said 39-8-108 is further amended BY THE ADDITION OF A NEW SUBSECTION to read:

39-8-108. Decision - review - opportunity to submit case to arbitration. (1) If the county board of equalization grants a petition, in whole or in part, the assessor shall adjust the valuation ~~for assessment~~ accordingly; but, if the petition is denied, in whole or in part, the petitioner may appeal the valuation ~~for assessment~~ set by the

assessor or, if the valuation ~~for assessment~~ is adjusted as a result of a decision of the county board of equalization, the adjusted valuation ~~for assessment~~ to the board of assessment appeals or to the district court of the county wherein ~~his~~ THE PETITIONER'S property is located for a trial de novo, or ~~he~~ THE PETITIONER may submit ~~his~~ THE case to arbitration pursuant to the provisions of section 39-8-108.5. Such appeal or submission to arbitration shall be taken no later than thirty days after the date such denial was mailed pursuant to section 39-8-107 (2). Any decision rendered by the county board of equalization shall state that the petitioner has the right to appeal the decision of the county board to the board of assessment appeals or to the district court of the county wherein ~~his~~ THE PETITIONER'S property is located or to submit ~~his~~ THE case to arbitration and, to preserve such right, the time by which such appeal or submission to arbitration must be made. Any request by any person other than the taxpayer pro se for a hearing before the board of assessment appeals shall be accompanied by a nonrefundable filing fee in an amount of twenty-five dollars for each tract, parcel, or lot of real property and for each schedule of personal property included in such request; except that, if any request for a hearing before the board of assessment appeals involves more than one tract, parcel, or lot owned by the same taxpayer and involves the same issue regarding the valuation ~~for assessment~~ of such real property, only one filing fee shall be required for such request for a hearing. In addition, any request by a taxpayer for a hearing before the board of assessment appeals shall be stamped with the date on which such request was received by the board. All such requests shall be presumed to be on time unless the board can present evidence to show otherwise.

(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 respondent county, 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. In addition, on and after June 7, 1989, 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 within thirty days of such decision 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 respondent county, the respondent may petition the court of appeals for judicial review of such questions within thirty days of such decision. Any decision issued by the board of assessment appeals shall inform the petitioner or respondent, as may be appropriate, of the right to petition the court of appeals for judicial review.

(5) In any appeal authorized by this section or by section 39-10-114:

(a) The valuation ~~for assessment~~ shall not be adjusted to a value higher than the valuation ~~for assessment~~ set by the county board of equalization pursuant to section 39-8-107, except as specifically permitted pursuant to section 39-5-125;

(6) IN ANY APPEAL OR SUBMISSION TO ARBITRATION AUTHORIZED BY THIS SECTION THERE SHALL BE NO PRESUMPTION IN FAVOR OF ANY PENDING VALUATION.

SECTION 8. 39-10-103 (1) (a), Colorado Revised Statutes, 1994 Repl. Vol., is amended to read:

39-10-103. Tax statement. (1) (a) As soon as practicable after January 1, the treasurer shall mail to each person whose name appears on the tax list and warrant a statement showing the total amount of taxes payable by ~~him~~ SUCH PERSON, which statement shall separately list the amount of taxes levied on real and personal property and shall recite THE ACTUAL VALUE OF THE PROPERTY AND the amount of valuation for assessment upon which such taxes were levied. If any of the personal property upon which taxes are to be levied is a mobile home, the tax statement shall contain the following notice: "This property may not be moved without a valid permit or prorated tax receipt and a transportable manufactured home permit from the county treasurer's office. Violators shall be prosecuted." Failure of any person to receive such statement shall not preclude collection by the treasurer of the amount of taxes due from and payable by such person. Such statement shall include a notice that, if such person desires a receipt for payment of taxes, ~~he~~ THE PERSON shall request such receipt. The statement may also state what each mill levy would have been for each taxing district for the prior tax year based upon the current year's valuation for assessment.

SECTION 9. 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 22, 1996