

CHAPTER 16

COURTS

SENATE BILL 96-006

BY SENATORS Schaffer, Matsunaka, Norton, Tebedo, and Weddig;
also REPRESENTATIVE McElhany.

AN ACT**CONCERNING THE ELIMINATION OF THE PRORATION OF PERSONAL PROPERTY TAXES.**

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

SECTION 1. Legislative declaration. The general assembly finds, determines, and declares that the longstanding tradition and practice among county assessors and taxpayers has been to tax personal property based upon its status as of January 1, the assessment date. The general assembly further finds, determines, and declares that due to the difficulties associated with the proration of personal property tax based on a change in tax status, destruction, transfer, or movement of the property across state lines and due to the limited resources of county assessors, personal property tax proration has not been uniformly or consistently enforced and applied. Therefore, in an effort to relieve county assessors of further burden in connection with the proration of personal property tax and to simplify and clarify personal property tax obligations to conform to current practices, it is the intent of the general assembly to eliminate the proration of personal property tax beginning with the property tax year commencing January 1, 1996, and to waive prorated personal property tax obligations that have not had collection actions commenced on or before January 1, 1997. To this end the general assembly enacts this act requiring the total annual property tax to be paid by the owner of the personal property as of the assessment date without adjustment due to change in tax status, destruction, transfer, or relocation of the personal property during the tax year and waiving prorated personal property tax obligations that are not in the process of collection as of January 1, 1997.

SECTION 2. 39-3-129 (1), Colorado Revised Statutes, 1994 Repl. Vol., is amended to read:

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

39-3-129. Proportional valuation - exempt property. (1) Except as otherwise provided in subsection (2) of this section, whenever, subsequent to the assessment date in any taxable year but prior to the date fixed by law for levying the requisite property taxes for ~~such~~ THE taxable year, any REAL property ~~which~~ THAT was previously taxable becomes legally exempt from the levy and collection of property tax or any REAL property ~~which~~ THAT was previously legally exempt from the levy and collection of property tax becomes taxable, the valuation for assessment of ~~such~~ THE REAL property shall be a proportion of the valuation for assessment of ~~such~~ THE REAL property for the entire taxable year based upon the ratio of the portion of the taxable year in which ~~such~~ THE property is taxable to the entire taxable year. In the event ~~such~~ THE REAL property is partially leased, loaned, or otherwise made available to and used by a business conducted for profit, the determination as to what portion of ~~such~~ THE REAL property is so utilized shall be made by the administrator on the basis of the facts existing on the annual assessment date for ~~such~~ THE REAL property. The administrator shall have the authority to determine the actual value of the nonexempt portion of ~~such~~ THE property in relation to the actual value of the entire property by using the ratio of the squarefoot area of ~~such~~ THE property utilized by the business conducted for profit to the total squarefoot area of ~~such~~ THE property. Where shown to be more appropriate, in order to determine the relationship between the actual value of the nonexempt portion of ~~said~~ THE property and the actual value of the total property, the administrator may employ the ratio of the portion as measured in hours of any calendar year in which ~~such~~ THE property is leased, loaned, or otherwise made available to and used by any business conducted for profit to the entire calendar year.

SECTION 3. 39-3-130, Colorado Revised Statutes, 1994 Repl. Vol., is amended to read:

39-3-130. Change in tax status of property - effective date - tax liability. (1) (a) (I) Whenever any REAL property ~~which~~ THAT was previously taxable becomes legally exempt from the levy and collection of property tax for any reason, the person conveying ~~such~~ THE REAL property shall be relieved from all further tax obligations with respect to ~~such~~ THE REAL property on the date title thereto is conveyed by agreement or on the date title thereto is conveyed pursuant to a court order.

(II) ON AND AFTER JANUARY 1, 1996, WHENEVER ANY PERSONAL PROPERTY THAT WAS PREVIOUSLY TAXABLE BECOMES LEGALLY EXEMPT FROM THE LEVY AND COLLECTION OF PROPERTY TAX FOR ANY REASON, THE EXEMPT STATUS SHALL BECOME EFFECTIVE ON THE ASSESSMENT DATE FOLLOWING THE CHANGE IN STATUS. IF THE CHANGE IN STATUS OCCURRED DUE TO THE CONVEYANCE OF THE PERSONAL PROPERTY, THE PERSON CONVEYING THE PERSONAL PROPERTY SHALL NOT BE RELIEVED OF ANY TAX OBLIGATION WITH RESPECT TO THE PERSONAL PROPERTY FOR THE PROPERTY TAX YEAR IN WHICH THE CONVEYANCE OCCURRED.

(b) (I) Except as otherwise provided in subsection (2) of this section, whenever any REAL property ~~which~~ THAT was previously exempt from the levy and collection of property tax becomes taxable, the person acquiring title to ~~such~~ THE REAL property shall be liable for subsequent tax obligations with respect to ~~such~~ THE REAL property on the date title thereto is acquired by ~~such~~ THE person.

(II) ON AND AFTER JANUARY 1, 1996, EXCEPT AS OTHERWISE PROVIDED IN

SUBSECTION (2) OF THIS SECTION, WHENEVER ANY PERSONAL PROPERTY THAT WAS PREVIOUSLY EXEMPT FROM THE LEVY AND COLLECTION OF PROPERTY TAX BECOMES TAXABLE, THE TAXABLE STATUS SHALL BECOME EFFECTIVE ON THE ASSESSMENT DATE FOLLOWING THE CHANGE IN STATUS. IF THE CHANGE IN STATUS OCCURRED DUE TO CONVEYANCE OF THE PERSONAL PROPERTY, THE PERSON ACQUIRING TITLE TO THE PERSONAL PROPERTY SHALL NOT BE LIABLE FOR ANY TAX OBLIGATION WITH RESPECT TO THE PERSONAL PROPERTY FOR THE PROPERTY TAX YEAR IN WHICH THE CONVEYANCE OCCURRED.

(2) Whenever any PERSONAL property consisting of inventory, as defined in section 39-1-102 (7.2), becomes taxable as ~~provided for in section 39-3-129~~ because ~~such~~ THE PERSONAL property has become subject to a lease or rental agreement, the lessor shall NOT be responsible for ~~the property tax determined pursuant to the provisions of section 39-3-129, and such property shall be listed for assessment pursuant to the provisions of section 39-5-125~~ ANY TAX OBLIGATION ON THE PROPERTY FOR THE PROPERTY TAX YEAR IN WHICH THE AGREEMENT WAS EXECUTED.

SECTION 4. 39-5-107 (1), Colorado Revised Statutes, 1994 Repl. Vol., is amended to read:

39-5-107. Personal property schedule. (1) All taxable personal property shall be listed on a form of schedule approved by the administrator and prepared and furnished by the assessor. Such schedule shall be so designed as to show the owner's name and address and the location and general description of ~~his~~ THE OWNER'S taxable personal property, divided into the various subclasses, and shall provide sufficient space for the furnishing of such information, derived from the books of account, records, or Colorado income tax returns of the owner of such property, as may be required by the assessor to determine the actual value of such property. ~~Such schedule shall include a description of the inventory, as defined in section 39-1-102 (7.2), of a manufacturer which was previously exempt but which pursuant to section 39-3-129 (1) has become taxable as personal property and the date on which it became taxable.~~

SECTION 5. Part 1 of article 5 of title 39, Colorado Revised Statutes, 1994 Repl. Vol., is amended BY THE ADDITION OF A NEW SECTION to read:

39-5-104.5. Valuation of personal property. (1) ON AND AFTER JANUARY 1, 1996, PERSONAL PROPERTY SHALL BE VALUED AS OF THE ASSESSMENT DATE, AND THE TAX SHALL APPLY FOR THE FULL ASSESSMENT YEAR WITHOUT REGARD TO ANY DESTRUCTION, CONVEYANCE, RELOCATION, OR CHANGE IN TAX STATUS OCCURRING AFTER THE ASSESSMENT DATE. THE OWNER OF TAXABLE PERSONAL PROPERTY ON THE ASSESSMENT DATE SHALL BE RESPONSIBLE FOR THE PROPERTY TAX ASSESSED FOR THE FULL PROPERTY TAX YEAR WITHOUT PRORATION.

(2) PERSONAL PROPERTY TAX OBLIGATIONS RESULTING FROM ANY CONVEYANCE, RELOCATION, OR CHANGE IN TAX STATUS OF THE PROPERTY DURING THE PROPERTY TAX YEAR THAT ARE NOT IN THE PROCESS OF COLLECTION AS OF JANUARY 1, 1997, SHALL BE WAIVED, AND THE TREASURER SHALL NOT COMMENCE ANY ACTION TO COLLECT SUCH OBLIGATIONS.

SECTION 6. 39-5-110 (1) and (2), Colorado Revised Statutes, 1994 Repl. Vol.,

are amended to read:

39-5-110. Property brought into state after assessment date - removal before next assessment date - temporary location of inventory. (1) Whenever any taxable personal property is brought from outside the state into any county of the state at any time ~~subsequent to~~ AFTER the assessment date in any year, ~~then the owner thereof or his agent shall at once secure a personal property schedule from the assessor, complete the same in all pertinent respects, sign it, and file it with the assessor of the county wherein such property shall be located. The assessor shall thereupon list and value such property at such proportion of its value for the full calendar year as the period of time remaining in the year bears to the full calendar year. If the owner of such taxable personal property or his agent fails to secure, complete, and file a personal property schedule with the assessor, then the assessor may value such property on the basis of the best information available to and obtainable by him and shall promptly notify the owner or his agent of such valuation~~ THE OWNER SHALL LIST THE PROPERTY ON THE PERSONAL PROPERTY SCHEDULE SENT TO THE TAXPAYER PURSUANT TO SECTION 39-5-108.

(2) If any taxable personal property located in the state on the assessment date or brought into the state at any time ~~subsequent to~~ AFTER the assessment date is removed from the state ~~prior to~~ BEFORE the next following assessment date, ~~then the owner thereof or his agent, before removing such property from the state, shall apply to the assessor of the county wherein such property was listed and valued for a revaluation of the same, and the assessor shall thereupon proceed to revalue the same at such proportion of its valuation for the full year as the period of time during which such property was located in the state bears to the full calendar year, but in no event shall such proportion be less than twenty-five percent of its valuation for the full year. Such revaluation shall supersede the valuation originally determined by the assessor; and, if such original valuation has been reported to the administrator in the annual abstract of assessment, an abatement of the amount of reduction in valuation shall be recommended and approved. The assessor shall immediately notify the treasurer of such revaluation and the reason for its being made. Failure of the owner of such taxable personal property or his agent to make application for revaluation to the assessor before removing such property from the state shall be considered a waiver, and no proportionate revaluation by the assessor shall then be required. The provisions of this subsection (2) shall apply only in those cases where such property remained in the same ownership during the entire year~~ THE OWNER OF THE PROPERTY SHALL NOT BE RELIEVED OF ANY TAX OBLIGATION WITH RESPECT TO THE PROPERTY AS A RESULT OF THE TRANSFER OF THE PROPERTY FOR THE PROPERTY TAX YEAR IN WHICH THE TRANSFER OCCURRED.

SECTION 7. 39-5-117, Colorado Revised Statutes, 1994 Repl. Vol., is amended to read:

39-5-117. Property improvements destroyed after assessment date. Whenever any ~~taxable personal property or any~~ improvements are destroyed or demolished subsequent to the assessment date in any year, it is the duty of the owner thereof or ~~his~~ THE OWNER'S agent to promptly notify the assessor of such destruction or demolition and the date upon which the same occurred. In all such cases, such ~~personal property or~~ improvements shall be valued by the assessor at the proportion of its valuation for the full calendar year that the period of time in such year prior to

its destruction or demolition bears to the full calendar year. Failure of the owner thereof or of ~~his~~ THE OWNER'S agent to so notify the assessor prior to the date taxes are levied shall be considered a waiver, and no proportionate valuation by the assessor shall then be required.

SECTION 8. Effective date - applicability. This act shall take effect upon passage and, except as provided in section 39-5-104.5 (2), Colorado Revised Statutes, shall apply to personal property tax obligations for property tax years commencing on or after January 1, 1996.

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: March 20, 1996