

CHAPTER 254

TAXATION

HOUSE BILL 08-1225

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also SENATOR(S) Williams and Ward, Bacon, Boyd, Brophy, Cadman, Gibbs, Gordon, Groff, Harvey, Isgar, Johnson, Keller, Kopp, Mitchell S., Morse, Penry, Renfroe, Sandoval, Schultheis, Schwartz, Shaffer, Spence, Veiga, Wiens, and Windels.

AN ACT

CONCERNING AN INCREASE IN THE PROPERTY TAX EXEMPTION FOR BUSINESS PERSONAL PROPERTY.

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

SECTION 1. 39-3-119.5, Colorado Revised Statutes, is amended to read:

39-3-119.5. Personal property - exemption - definitions. (1) For property tax years commencing on and after January 1, 1997, personal property not otherwise exempt from property tax shall be exempt from the levy and collection of property tax if the personal property would otherwise be listed on a single personal property schedule and the actual value of such personal property is ~~two thousand five hundred dollars~~ or less THAN OR EQUAL TO THE AMOUNT SET FORTH IN SUBSECTION (2) OF THIS SECTION.

(2) (a) THE EXEMPTION CREATED IN SUBSECTION (1) OF THIS SECTION SHALL BE UP TO AND INCLUDING THE FOLLOWING AMOUNTS:

(I) TWO THOUSAND FIVE HUNDRED DOLLARS FOR PROPERTY TAX YEARS COMMENCING PRIOR TO JANUARY 1, 2009;

(II) FOUR THOUSAND DOLLARS FOR THE PROPERTY TAX YEARS COMMENCING ON JANUARY 1, 2009, AND JANUARY 1, 2010;

(III) FIVE THOUSAND FIVE HUNDRED DOLLARS FOR PROPERTY TAX YEARS COMMENCING ON JANUARY 1, 2011, AND JANUARY 1, 2012; AND

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

(IV) SEVEN THOUSAND DOLLARS FOR PROPERTY TAX YEARS COMMENCING ON JANUARY 1, 2013, AND JANUARY 1, 2014.

(b) (I) BEGINNING WITH THE PROPERTY TAX YEAR COMMENCING ON JANUARY 1, 2015, THE AMOUNT OF THE EXEMPTION CREATED IN SUBSECTION (1) OF THIS SECTION SHALL BE ADJUSTED BIENNIALY TO ACCOUNT FOR INFLATION SINCE THE AMOUNT OF THE EXEMPTION LAST CHANGED PURSUANT TO THIS SUBSECTION (2). ON OR BEFORE NOVEMBER 1, 2014, AND EACH EVEN-NUMBERED YEAR THEREAFTER, THE ADMINISTRATOR SHALL CALCULATE THE AMOUNT OF THE EXEMPTION FOR THE NEXT TWO-YEAR CYCLE USING INFLATION FOR THE PRIOR TWO CALENDAR YEARS AS OF THE DATE OF THE CALCULATION. THE ADJUSTED EXEMPTION SHALL BE ROUNDED UPWARD TO THE NEAREST ONE HUNDRED DOLLAR INCREMENT. THE ADMINISTRATOR SHALL CERTIFY THE AMOUNT OF THE EXEMPTION FOR THE NEXT TWO-YEAR CYCLE AND PUBLISH THE AMOUNT ON THE WEB SITE MAINTAINED BY THE DIVISION OF PROPERTY TAXATION IN THE DEPARTMENT OF LOCAL AFFAIRS.

(II) AS USED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (b), "INFLATION" MEANS THE ANNUAL PERCENTAGE CHANGE IN THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS, CONSUMER PRICE INDEX FOR DENVER-BOULDER-GREELEY, ALL ITEMS, ALL URBAN CONSUMERS, OR ITS SUCCESSOR INDEX.

SECTION 2. 39-5-108, Colorado Revised Statutes, is amended to read:

39-5-108. Schedule sent to taxpayer - return. As soon after the assessment date as may be practicable, the assessor shall mail or deliver ~~two copies~~ ONE COPY of the personal property schedule to the place of business or to the residence of each person known or believed to own taxable personal property located in the county, or to the agent of such person. Such person or his or her agent shall list in such schedule all taxable personal property owned by him or her, or in his or her possession, or under his or her control located in said county on the assessment date, attaching such exhibits or statements thereto as may be necessary, and shall sign and return the original copy thereof to the assessor no later than the April 15 next following. Exhibits and statements attached to the personal property schedule shall be deemed sufficient for the purposes of the schedule if such exhibits or statements clearly list the property, the cost of the property, and the date the property was acquired.

SECTION 3. 39-5-121 (1.5) (a), Colorado Revised Statutes, is amended to read:

39-5-121. Notice of valuation - legislative declaration. (1.5) (a) No later than June 15 in each year, the assessor shall mail to each person who owns taxable personal property a notice setting forth the valuation of the 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 any adjustment in actual value. The notice shall not state the valuation for assessment of the 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 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 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 protests. The notice shall also set forth the following: To preserve the taxpayer's right to protest, the taxpayer must notify the assessor either by mail or in person of the taxpayer's objection and protest; that ~~if notice is made by mail~~, the notice must be postmarked OR PHYSICALLY DELIVERED no later than June 30; ~~and that, if notice is made in person, the 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 that, if completed by the taxpayer, allows the taxpayer to explain the basis for the taxpayer's valuation of the property. The 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 4. 39-5-122 (1) and (2), Colorado Revised Statutes, are amended to read:

39-5-122. Taxpayer's remedies to correct errors. (1) On or before May 1 of each year, the assessor shall give public notice in at least one issue of a newspaper published in his or her county that, beginning on the first working day after notices of adjusted valuation are mailed to taxpayers, the assessor will sit to hear all objections and protests concerning valuations of taxable real property determined by the assessor for the current year; that, for a taxpayer's objection and protest to be heard, notice must be given to the assessor; and that such notice must be postmarked, delivered, or given in person by June 1. The notice shall also state that objections and protests concerning valuations of taxable personal property determined by the assessor for the current year will be heard commencing June 15; that, for a taxpayer's objection and protest to be heard, notice must be given to the assessor; and that such notice ~~if given by mail~~, must be POSTMARKED OR PHYSICALLY DELIVERED by June 30. ~~or, if given in person must be by July 5~~. If there is no such newspaper, then such notice shall be conspicuously posted in the offices of the assessor, the treasurer, and the county clerk and recorder, and in at least two other public places in the county seat. The assessor shall send news releases containing such notice to radio stations, television stations, and newspapers of general circulation in the county.

(2) If any person is of the opinion that his or her property has been valued too high, has been twice valued, or is exempt by law from taxation or that property has been erroneously assessed to such person, he or she may appear before the assessor and object, complete the form mailed with his or her notice of valuation pursuant to section 39-5-121 (1) or (1.5), or file a written letter of objection and protest by mail with the assessor's office before the last day specified in the notice, stating in general terms the reason for the objection and protest. Reasons for the objection and protest may include, but shall not be limited to, the installation and operation of surface equipment relating to oil and gas wells on agricultural land. Any change or adjustment of any ratio of valuation for assessment for residential real property pursuant to the provisions of section 39-1-104.2 shall not constitute grounds for an objection. If the form initiating an appeal or the written letter of objection and

protest is filed by mail, it shall be presumed that it was received as of the day it was postmarked. If the form initiating an appeal or the written letter of objection and protest is hand-delivered, the date it was received by the assessor shall be stamped on the form or letter. As stated in the public notice given by the assessor pursuant to subsection (1) of this section, the taxpayer's notification to the assessor of his or her objection and protest to the adjustment in valuation must be delivered, postmarked, or given in person by June 1 in the case of real property. In the case of personal property, the notice must be postmarked OR PHYSICALLY DELIVERED by June 30. ~~or given in person by July 5.~~ All such forms and letters received from protesters shall be presumed to be on time unless the assessor can present evidence to show otherwise. The county shall not prescribe the written form of objection and protest to be used. The protester shall have the opportunity on the days specified in the public notice to present his or her objection in writing or protest in person and be heard, whether or not there has been a change in valuation of such property from the previous year and whether or not any change is the result of a determination by the assessor for the current year or by the state board of equalization for the previous year. If the assessor finds any valuation to be erroneous or otherwise improper, the assessor shall correct the error. If the assessor declines to change any valuation that the assessor has determined, the assessor shall state his or her reasons in writing on the form described in section 39-8-106, shall insert the information otherwise required by the form, and shall mail two copies of the completed form to the person presenting the objection and protest so denied on or before the last regular working day of the assessor in June in the case of real property and on or before July 10 in the case of personal property; except that, if a county has made an election pursuant to section 39-5-122.7 (1), the assessor shall mail the copies on or before the last working day of the assessor in August in the case of both real and personal property.

SECTION 5. Effective date. 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, (August 6, 2008, if adjournment sine die is on May 7, 2008); 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.

Approved: May 20, 2008