

Abatements and Refunds

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Colorado Division of Property Taxation



CCTA Conference

Colorado Springs, Colorado

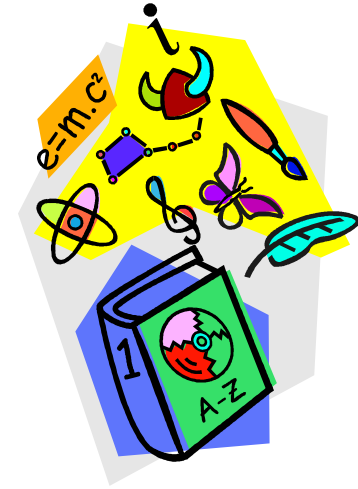
June 29, 2010

Abatements & Refunds

- Definitions
- Need for Abatements
- History of Abatement Law
- Abatement Process
- Treasurer's Role in Processing
- Abatement Situations
- Treasurer's Abatement Reports



Definitions



- Refund:
Return taxes already paid
- Abate:
Cancel or reduce tax owed

Need for Abatements

- Due Process
 - Guaranteed by U.S. & Colo. Constitutions
 - No one deprived of life, liberty, or property
 - Opportunity to challenge legality of action



Due Process

- Challenge assessment through abatement process after taxes are levied
- Taxpayer has “right” to file abatement petition
- Taxpayer presents evidence of incorrect value or tax



Need for Abatements

- To change tax amounts after the tax roll is delivered to the Treasurer
- Treasurers and assessors are required by statute to report to the commissioners any erroneous or illegal taxes, due to:
 - Erroneous assessments
 - Irregularities in levying
 - Clerical errors
 - Overvaluations

39-10-114(1)(a)(I)(A)



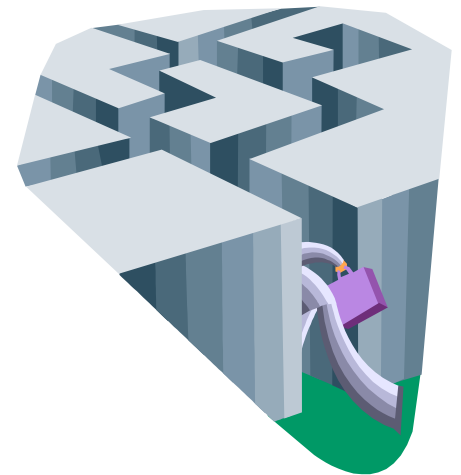
History of Abatement Law

- Procedures created in 1902
- Before 1982, no limit on number of years
- 1981 (SB 167) added limit of 6 years
- 1988 (SB 184) changed limit to 1 year beginning in 1990
- 1991 (SB 231) established 2-year limit



Abatement Process

- Abatement process usually starts in assessor's office
- Who can initiate abatements?
 - Treasurer by statute
 - Assessor was added in 1996
 - Taxpayer or Agent -- most common
- Taxpayer must have proper “standing” to legally file for an abatement...



Legal Standing

(Right to make a claim)

- Ownership
- Agent for taxpayer
- Ownership through foreclosure
- Lessee (with authorization in lease)



Note: Tax lien certificate holders do not have standing until Treasurer's Deed is issued.

Legal Standing

- Keep in mind that anyone can “file” an abatement petition, but if the petitioner does not have standing, the petition may be denied.



Petition for Abatement

PETITION FOR ABATEMENT OR REFUND OF TAXES

County: _____

Date Received _____
(Use Assessor's or Commissioners' Date Stamp)

Section I: Petitioner, please complete Section I only.

Date: _____
Month Day Year

Petitioner's Name: _____

Petitioner's Mailing Address: _____

City or Town State Zip Code

SCHEDULE OR PARCEL NUMBER(S) PROPERTY ADDRESS OR LEGAL DESCRIPTION OF PROPERTY

Petitioner states that the taxes assessed against the above property for property tax year(s) _____ and _____ are incorrect for the following reasons: (Briefly describe the circumstances surrounding the incorrect value or tax. Attach additional sheets if necessary.)

Petitioner's estimate of value: \$ _____ (Value Year) and \$ _____ (Value Year)

Petitioner requests an abatement or refund of the appropriate taxes.

I declare, under penalty of perjury in the second degree, that this petition, together with any accompanying exhibits or statements, has been prepared or examined by me, and to the best of my knowledge, information and belief, is true, correct, and complete.

Petitioner's Signature Daytime Phone Number (_____) _____

By _____ Daytime Phone Number (_____) _____
Agent's Signature*

*Letter of agency must be attached when petition is submitted by an agent.

If the board of county commissioners, pursuant to section 39-10-114(1), or the property tax administrator, pursuant to section 39-2-116, denies the petition for refund or abatement of taxes in whole or in part, the petitioner may appeal to the board of assessment appeals pursuant to the provisions of section 39-2-125 within thirty days of the entry of any such decision, § 39-10-114.5(1), C.R.S.

Section II: Assessor's Recommendation (For Assessor's Use Only)

	Tax Year _____			Tax Year _____		
	Actual	Assessed	Tax	Actual	Assessed	Tax
Original	_____	_____	_____	_____	_____	_____
Corrected	_____	_____	_____	_____	_____	_____
Abate/Refund	_____	_____	_____	_____	_____	_____

- Assessor recommends approval as outlined above.
No protest was filed for the year(s): _____ or _____ (If a protest was filed, please attach a copy of the NOD.)
 Assessor recommends denial for the following reason(s): _____

Assessor's or Deputy Assessor's Signature

FOR ASSESSORS AND COUNTY COMMISSIONERS USE ONLY (Section III or Section IV must be completed)

Every petition for abatement or refund filed pursuant to section 39-10-114 shall be acted upon pursuant to the provisions of this section by the board of county commissioners or the assessor, as appropriate, within six months of the date of filing such petition, § 39-1-113(1,7), C.R.S.

Section III: Written Mutual Agreement of Assessor and Petitioner (Only for abatements up to \$1,000)

The commissioners of _____ County authorize the assessor by Resolution No. _____ to review petitions for abatement or refund and to settle by written mutual agreement any such petition for abatement or refund in an amount of one thousand dollars or less per tract, parcel, or lot of land or per schedule of personal property, in accordance with § 39-1-113(1.5), C.R.S.

The assessor and petitioner mutually agree to the values and tax abatement/refund of:

	Tax Year _____			Tax Year _____		
	Actual	Assessed	Tax	Actual	Assessed	Tax
Original	_____	_____	_____	_____	_____	_____
Corrected	_____	_____	_____	_____	_____	_____
Abate/Refund	_____	_____	_____	_____	_____	_____

Note: The total tax amount does not include accrued interest, penalties, and fees associated with late and/or delinquent tax payments, if applicable. Please contact the county treasurer for full payment information.

Petitioner's Signature Date

Assessor's or Deputy Assessor's Signature Date

Section IV: Decision of the County Commissioners (Must be completed if Section III does not apply)

WHEREAS, The County Commissioners of _____ County, State of Colorado, at a duly and lawfully called regular meeting held on _____/_____/_____, at which meeting there were present the following members:

with notice of such meeting and an opportunity to be present having been given to the taxpayer and the Assessor of said County and Assessor _____ (being present-not present) and petitioner _____ (being present-not present), and WHEREAS, The said County Commissioners have carefully considered the within petition, and are fully advised in relation thereto, NOW BE IT RESOLVED, That the Board (agrees--does not agree) with the recommendation of the assessor and the petition be (approved--approved in part--denied) with an abatement/refund as follows:

Year	Assessed Value	Taxes Abate/Refund	Year	Assessed Value	Taxes Abate/Refund
_____	_____	_____	_____	_____	_____

Chairperson of the Board of County Commissioners' Signature

I, _____ County Clerk and Ex-officio Clerk of the Board of County Commissioners in and for the aforementioned county, do hereby certify that the above and foregoing order is truly copied from the record of the proceedings of the Board of County Commissioners.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County

this _____ day of _____, _____
Month Year

County Clerk's or Deputy County Clerk's Signature

Note: Abatements greater than \$1,000 per schedule, per year, must be submitted in duplicate to the Property Tax Administrator for review.

Section V: Action of the Property Tax Administrator (For all abatements greater than \$1,000)

The action of the Board of County Commissioners, relative to the within petition, is hereby
 Approved Approved in part \$ _____ Denied for the following reason(s): _____

Secretary's Signature

Property Tax Administrator's Signature Date

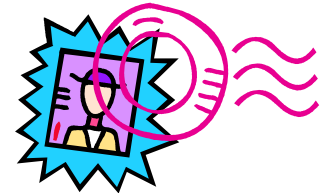
Abatement Process

- Abatements are petitions to the County Commissioners.
- Assessor reviews petition and makes a recommendation to BOCC.
 - (BOCC may authorize assessor to approve petitions under \$1,000, if petitioner agrees to the adjustment)
- County has 6-months to act on abatement petitions.



Abatement Process

- Deadline for taxpayer to file: Within 2 years after the January 1 following the year taxes were levied
- Postmark date is the filing date
- Assessor may approve petitions < \$1,000
 - Must have BOCC authorization
 - Mutual written agreement
 - Petition submitted to Treasurer for refund of taxes



Abatement Process

- BOCC conducts hearing:
 - If petition is greater than \$1,000
 - On petitions less than \$1,000 if petitioner and assessor do not agree on value
- If BOCC denies abatement, taxpayer may appeal to Board of Assessment Appeals (BAA)



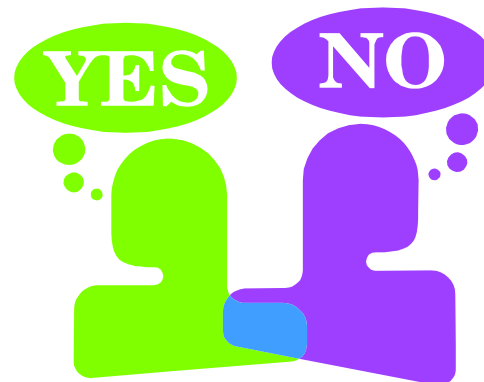
Abatement Process

- If BOCC approves abatement less than \$1,000, petition is sent to Treasurer for refund of taxes.
- If BOCC approves abatement over \$1,000, two copies are forwarded to Administrator (PTA) for review.
 - Colorado counties process about 21,000 abatements per year (\$52 million in revenue)
 - PTA reviews about 1,500 per year



Abatement Process

- If Administrator approves the abatement, the petition is returned to the county for processing the refund.
- If Administrator denies the abatement, the taxpayer may appeal to BAA within 30 days.

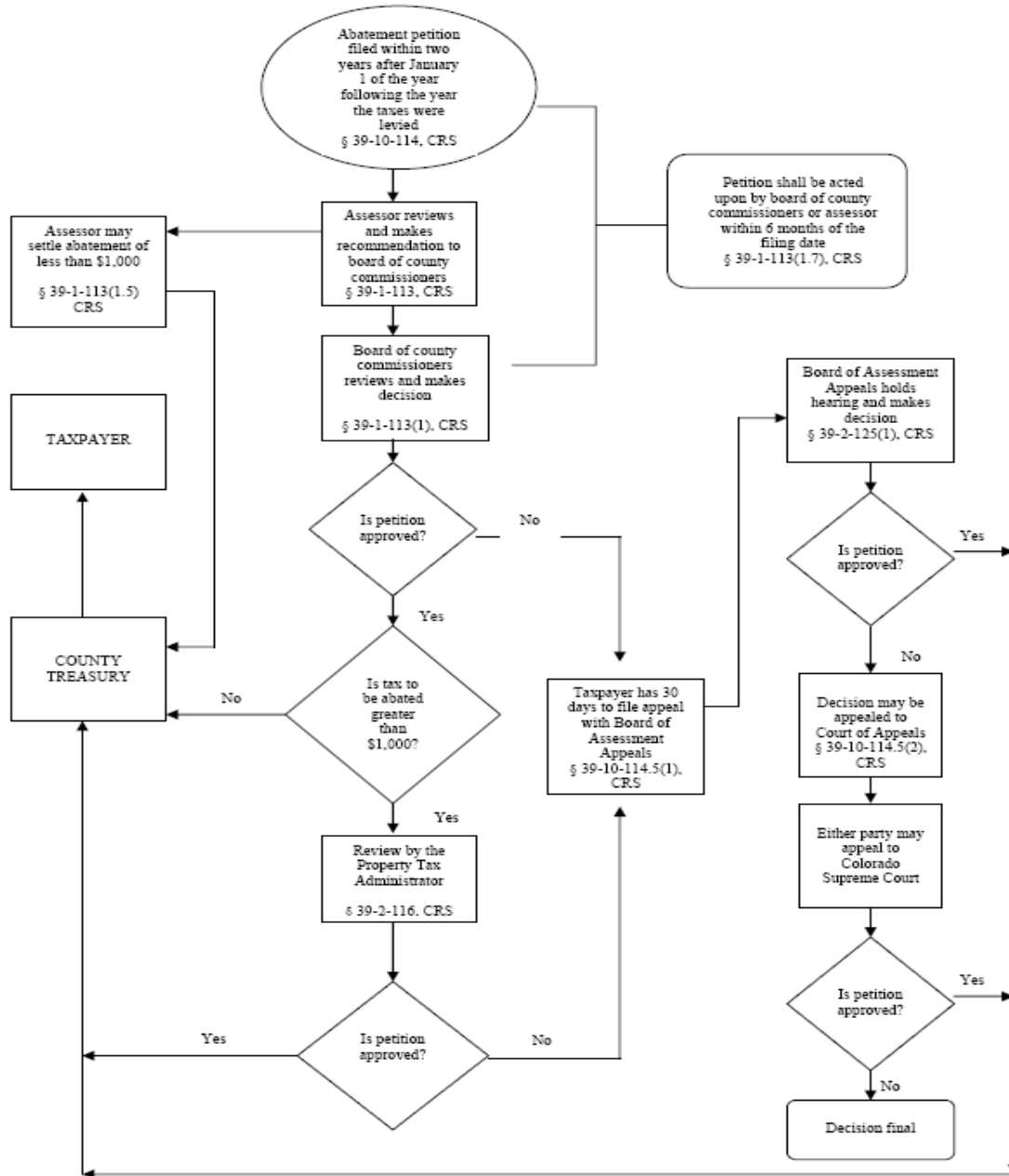


Abatement Process

- If BAA denies petition, taxpayer may appeal to Court of Appeals within 45 days.
- Court of Appeals' decision may be appealed to Colorado Supreme Court within 30 days.

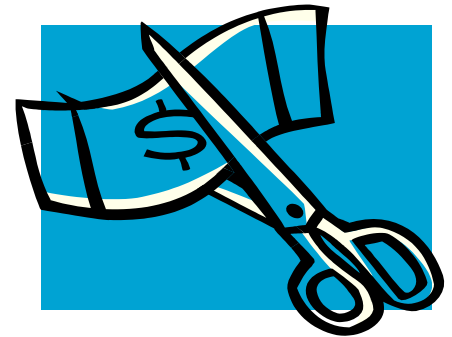


ABATEMENT PROCESS



Processing by Treasurer

- Taxes are abated or refunded pro rata (proportionately) by taxing jurisdictions, 39-1-113(2)
- Refund Interest
 - Same rate as delinquent interest
 - Accrues from date taxes were paid, except...
 - No refund interest paid when taxpayer makes an error in completing his Personal Property Declaration Schedule, 39-10-114(1)(b)



Processing by Treasurer

- Refund Interest
 - In cases of oil & gas real property, refund interest accrues from the date the abatement is filed if taxes were erroneously levied and collected as a result of an error made by the taxpayer in completing the required declarations.



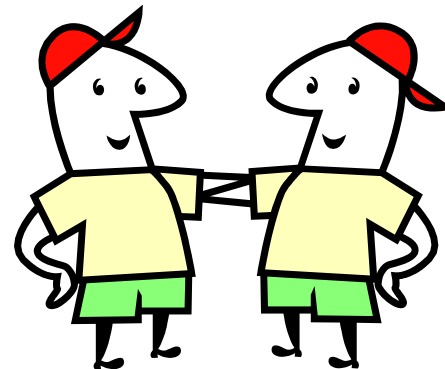
Typical Abatement Situations

- Erroneous Classification
- Incorrect Mill Levy
- Clerical Errors
- Real Property Changing Tax Status
 - Taxable to exempt



Typical Abatement Situations

- Incorrect Acreage or Square Footage
- Improvement Assessed to Incorrect Parcel
- Taxpayer Reporting Error
 - Personal Property Declaration Schedule
- Double Assessment



Typical Abatement Situations

- Destroyed or Demolished Real Property
- Adjustments made during protest period but not transferred to assessment roll
- Overvaluation (when no protest was filed for the same year)



Special Abatement Situations

- Blanket Abatement

- Includes multiple schedules with similar issues, such as:

- Overpayment or underpayment of prepaid taxes on manufactured homes that moved
- A whole subdivision of parcels listed in the wrong tax area



Special Abatement Situations

- Valuations changed by BAA or District Court Order
 - Court Order or Board Order may be presented by Assessor to Treasurer in lieu of abatement petition, 39-8-109.
 - Taxes and any delinquent interest are refunded to appellant, even if not current owner
 - Refund interest accrues from date payment was received by Treasurer
 - Court costs and witness fees also refunded



Special Abatement Situations

- Exemptions granted by Division of Property Taxation (DPT) for religious, charitable, or private school uses
 - Abatement petitions optional
 - Treasurer may use Final Determination from DPT to process abatement
 - Abatement amount is included in report to Assessor



Special Abatement Situations

- State-Assessed Property Abatements
 - Abatement petitions optional
 - Treasurer may use letter from DPT to process abatement
 - Abatement amount is included in report to Assessor



Special Abatement Situations

- Tax Lien Sold in Error at Tax Lien Sale
 - Interest paid from county general fund, 39-12-111(1)
 - Interest is lower than redemption interest under 39-12-103(3)
 - Treasurer's duty to examine delinquent list before tax lien sale, 39-11-107



Treasurer's Annual Reports

Required by

39-10-114(3), C.R.S.

- Report to Property Tax Administrator
 - Abatements, refunds, uncollectible and cancelled taxes
 - August 1 – July 31 reporting timeframe
 - Report filed by August 25, annually
 - Include owner name, parcel number, abatement amount, and date
 - Do not include interest and penalties
 - Data compiled in DPT's Annual Report



Treasurer's Annual Reports

Required by

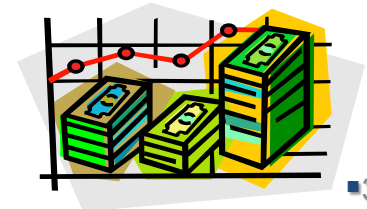
39-10-114(3), C.R.S.

- Report to Department of Revenue
 - Personal property abatements and refunds
 - Report filed by August 10
 - Include owner name, schedule number, amount of abatement, and date
 - Used when state revenues exceed state fiscal year spending limit under TABOR



Treasurer's Annual Reports

- Report to Assessor for Certification to Taxing Entities
 - Taxing entities may certify a levy to recover lost revenue from abatements and refunds
 - Include abatements and refunds processed from August 1 of previous year through July 31 of current year
 - Include BAA and Court decisions
 - Do not include write-offs and uncollectibles
 - Report by taxing entity, if possible



Certification of Values Form



EXAMPLE: CERTIFICATION FOR ENTITY AND LIMIT CALCULATIONS

County Tax Entity Code _____ DOLA LGD SID _____

CERTIFICATION OF VALUATION BY SHINE COUNTY ASSESSOR

New Tax Entity YES NO Date August 21, 2010

NAME OF TAX ENTITY: Happy Town

USE FOR STATUTORY PROPERTY TAX REVENUE LIMIT CALCULATION ("5.5%" LIMIT) ONLY

IN ACCORDANCE WITH 39-5-121(3)(a) and 39-5-128(1), C.R.S., AND NO LATER THAN AUGUST 25, THE ASSESSOR CERTIFIES THE TOTAL VALUATION FOR ASSESSMENT FOR THE TAXABLE YEAR 200__:

1.	PREVIOUS YEAR'S NET TOTAL TAXABLE ASSESSED VALUATION:		1.	\$	10,261,618
2.	CURRENT YEAR'S GROSS TOTAL TAXABLE ASSESSED VALUATION: ‡		2.	\$	10,801,703
3.	LESS TOTAL TIF AREA INCREMENTS, IF ANY:		3.	\$	-0-
4.	CURRENT YEAR'S NET TOTAL TAXABLE ASSESSED VALUATION:		4.	\$	10,801,703
5.	NEW CONSTRUCTION: *		5.	\$	318,584
6.	INCREASED PRODUCTION OF PRODUCING MINE: ¶		6.	\$	-0-
7.	ANNEXATIONS/INCLUSIONS:		7.	\$	-0-
8.	PREVIOUSLY EXEMPT FEDERAL PROPERTY: ■		8.	\$	54,892
9.	NEW PRIMARY OIL OR GAS PRODUCTION FROM ANY PRODUCING OIL AND GAS LEASEHOLD OR LAND (29-1-301(1)(b), C.R.S.): ◆		9.	\$	465,920
10.	TAXES RECEIVED LAST YEAR ON OMITTED PROPERTY AS OF AUG. 1 (29-1-301(1)(a), C.R.S.). Includes all revenue collected on valuation not previously certified:		10.	\$	737,96
11.	TAXES ABATED AND REFUNDED AS OF AUG. 1 (29-1-301(1)(a), C.R.S.) and (39-10-114(1)(a)(D)(B), C.R.S.):		11.	\$	208,61

‡ This value reflects personal property exemptions IF enacted by the jurisdiction as authorized by Art. X, Sec. 20(3)(b), Colo. Constitution
 * New Construction is defined as: Taxable real property structures and the personal property connected with the structure.
 ¶ Jurisdiction must submit to the Division of Local Government respective Certifications of Impact in order for the values to be treated as growth in the limit calculation; use Form DLG 22 & 21A.
 ◆ Jurisdiction must apply to the Division of Local Government before the value can be treated as growth in the limit calculation; use Form DLG 12B.

USE FOR TABOR "LOCAL GROWTH" CALCULATION ONLY

IN ACCORDANCE WITH ART. X, SEC. 20, COLO. CONSTITUTION AND 39-5-121(3)(b), C.R.S., THE ASSESSOR CERTIFIES THE TOTAL ACTUAL VALUATION FOR THE TAXABLE YEAR 200__:

1.	CURRENT YEAR'S TOTAL ACTUAL VALUE OF ALL REAL PROPERTY: ¶		1.	\$	56,637,889
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ADDITIONS TO TAXABLE REAL PROPERTY

2.	CONSTRUCTION OF TAXABLE REAL PROPERTY IMPROVEMENTS: *		2.	\$	1,427,830
3.	ANNEXATIONS/INCLUSIONS:		3.	\$	-0-
4.	INCREASED MINING PRODUCTION: §		4.	\$	-0-
5.	PREVIOUSLY EXEMPT PROPERTY:		5.	\$	189,282
6.	OIL OR GAS PRODUCTION FROM A NEW WELL:		6.	\$	532,480
7.	TAXABLE REAL PROPERTY OMITTED FROM THE PREVIOUS YEAR'S TAX WARRANT: (If land and/or a structure is picked up as omitted property for multiple years, only the most current year's actual value can be reported as omitted property):		7.	\$	280,458

DELETIONS FROM TAXABLE REAL PROPERTY

8.	DESTRUCTION OF TAXABLE REAL PROPERTY IMPROVEMENTS:		8.	\$	305,746
9.	DISCONNECTIONS/EXCLUSIONS:		9.	\$	-0-
10.	PREVIOUSLY TAXABLE PROPERTY:		10.	\$	12,620

¶ This includes the actual value of all taxable real property plus the actual value of religious, private school, and charitable real property.
 ■ Construction is defined as newly constructed taxable real property structures.
 § Includes production from new mines and increases in production of existing producing mines.

IN ACCORDANCE WITH 39-5-128(1), C.R.S., AND NO LATER THAN AUGUST 25, THE ASSESSOR CERTIFIES TO SCHOOL DISTRICTS:

1.	TOTAL ACTUAL VALUE OF ALL TAXABLE PROPERTY		1.	\$	N/A
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NOTE: ALL LEVIES MUST BE CERTIFIED TO THE COUNTY COMMISSIONERS NO LATER THAN DECEMBER 15.



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Wheeeee!
That's all folks!