


Abatements, Exemptions & Omitted Property

CCTA Quadrennial Training
February 14 -16, 2011




Abatements

- ▶ Abatements are petitions to the County Commissioners to lower the value/taxes on a property after taxes are levied.
- ▶ Assessor reviews petition and makes a recommendation to BoCC.
- ▶ The County has 6 months to act on abatement petitions.



Abatements

- ▶ The abatement process typically starts in the assessor's office
- ▶ Who can initiate an abatement?
 - Taxpayer or Agent - *most common*
 - Assessor or Treasurer
- ▶ The taxpayer must have proper "standing" to legally file for an abatement.
 - Ownership
 - Agent for Taxpayer
 - Ownership through foreclosure
 - Lessee (with authorization in lease)



Abatements

- ▶ *Deadline for the taxpayer to file:* Within 2 years after January 1 following the year the taxes were levied.
- ▶ Postmark date is the filing date.
- ▶ Upon being authorized by the BoCC the assessor may review petitions and settle by written agreement any petition under \$10,000 (previously \$1,000).

Abatements

- ▶ Treasurer and assessor are required to report to the commissioners if taxes have been levied erroneously or illegally, whether due to erroneous valuation for assessment, irregularity in levying, clerical error, or overvaluation. 39-10-114(1) (a) (i) (A)

Abatements

- ▶ BoCC conducts hearing:
 - Denied - taxpayer may appeal to Board of Assessment Appeals (BAA).
 - Approved and **less** than \$10,000 (previously \$1,000), petition is sent to Treasurer to lower/refund taxes
 - Approved and **over** \$10,000 (previously \$1,000), two copies are forwarded to the State for review.

Abatements

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

Abatements – Processing by Treasurer

- ▶ Taxes are abated or refunded proportionately by taxing jurisdictions, 39-1-113 (2).
 - Abate: Cancel or reduce tax owed (taxes not paid)
 - Refund: Refund of taxes already paid with interest
- ▶ Interest is paid on the refunded amount at the same rate as delinquent interest (1% per month). 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).

Abatements – Processing by Treasurer

- ▶ Refund Interest
 - In case 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.

Abatements – Common Situations

- ▶ Erroneous Classification
- ▶ Incorrect Mill Levy
- ▶ Clerical Errors
- ▶ Change of Real Property Tax Status (taxable to exempt)
- ▶ Incorrect acreage or square footage
- ▶ Double Assessment
- ▶ Overvaluation
- ▶ Destroyed or demolished real property

Abatements – Special Situations

- ▶ Valuations change 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 cost and witness fees also refunded

Abatements – Special Situations

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

Abatements – Special 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, 39-12-103 (3)
 - Treasurer’s duty to examine delinquent list before tax lien sale, 39-11-107

Treasurer’s Annual Reports

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

- ▶ Report to Property Tax Administrator
 - Include abatements, refunds, uncollectible and cancelled taxes
 - Reporting Timeframe: August 1 – July 31
 - Deadline: August 25, annually
 - Include owner name, account number, abatement amount and date.
 - Do not include interest and penalties
 - This data is compiled in the DPT’s Annual Report.

Treasurer’s Annual Reports

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

- ▶ Report to Department of Revenue
 - Personal property abatements and refunds
 - Report filed by August 10 each year
 - Include owner name, account number, amount of abatement and dates
 - 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
 - Report by taxing entity, if possible.
 - Report date – August 1 of previous year through July 31 of current year
 - Include BAA and Court decisions
 - *Do not include uncollectible and cancelled taxes.*

Exemptions

- ▶ The Division of Property Taxation is responsible for determining whether property qualifies for property tax exemption as owned and used solely and exclusively for religious purposes, charitable purposes, or private school purposes, pursuant to the requirement of C.R.S. 39-3-106 to 39-3-113 and 39-3-116.

Exemptions

- ▶ 39-2-117(1)(II)
 - On all properties for which an application is pending in the office of the administrator, taxes shall not be due and payable until such determination has been made.
 - Such property shall not be listed for the tax sale, and no delinquent interest will be charged on any portion of the exemption that is denied.

Exemptions

- ▶ 39-2-117(1)(III)
 - No later than June 1 of each year, the administrator shall provide to the assessor, treasurer and board of county commissioners of each county a list of all applications for property tax exemptions currently pending in the office of the administrator.
 - The DPT rules and regulations require that "For applications filed after June 1 of each year, the applicant is responsible for notifying the county treasurer in writing of the pending application to prevent the property from being sold at the tax sale."

Exemptions

- ▶ 39-2-117(3)(a)(I) -(II)
 - On and after January 1, 1990, and no later than April 15 of each year, every owner of real or personal property for which exemption from general taxation has previously been granted shall file a report with the administrator.
 - If the annual report is not received by June 1 from the owner, the administrator shall give notice in writing to such property owner by June 15 that failure to comply by July 1 shall operate as a forfeiture of any right to claim exemption of previously exempt property from general taxation for the current year.

Omissions

- ▶ 39-5-125
 - Whenever it is discovered that any taxable property has been omitted from the assessment roll of any year or series of years, the assessor shall immediately determine the value of such omitted property and shall list on the assessment roll of the year in which the discovery was made and shall notify the treasurer of any unpaid taxes on such property for prior years.
 - Omissions and errors in the assessment roll may be supplied or corrected by the assessor at any time before the tax warrant is delivered to the treasurer or by the treasurer at any time after the tax warrant has been received.

Omissions

- ▶ 39-10-101
 - If after the tax list and warrant has been received by the treasurer, the treasurer discovers that any taxable property has been omitted from the tax list and warrant for the current year or for any prior year and has not been valued for assessment, the treasurer shall forthwith list and value such property for assessment in the same manner as the assessor might have done and shall enter such valuation on the tax list and warrant and extend the levy.

Omissions

- ▶ Omitted taxes shall not be added to the tax roll more than six years after the date on which the tax was or is payable. No more than two years, when the failure to collect is due to an error or omission by a governmental entity (does not apply to oil and gas leaseholds and land).
- ▶ Interest shall not be charged prior to the date on which additional assessment is made.
