

## C.R.S. 39-10-114

Current through all laws passed during the 2019 Legislative Session.

### **CO - Colorado Revised Statutes Annotated > TITLE 39. TAXATION > PROPERTY TAX > ARTICLE 10. COLLECTION**

#### **39-10-114. Abatement - cancellation of taxes**

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(1)(a) (I) (A) Except as otherwise provided in subsections (1)(a)(I)(D) and (1)(a)(I)(E) of this section, if taxes have been levied erroneously or illegally, whether due to erroneous valuation for assessment, irregularity in levying, clerical error, or overvaluation, the treasurer shall report the amount thereof to the board of county commissioners, which shall proceed to abate such taxes in the manner provided by law. The assessor shall make such report if the assessor discovers that taxes have been levied erroneously or illegally. If such taxes have been collected by the treasurer, the board of county commissioners shall authorize refund of the same in the manner provided by law. Except as provided in subsections (1)(a)(I)(E) and (1)(a)(I)(F) of this section and [section 39-5-125 \(4\)](#), in no case shall an abatement or refund of taxes be made unless a petition for abatement or refund is filed within two years after January 1 of the year following the year in which the taxes were levied. For purposes of this subsection (1)(a)(I)(A), "clerical error" shall include, but shall not be limited to, any clerical error made by a taxpayer in completing personal property schedules pursuant to the provisions of article 5 of this title. Notwithstanding any other law to the contrary, for purposes of this subsection (1)(a)(I)(A), "erroneous valuation" shall include, but shall not be limited to: Any reclassification of property from agricultural land to any other classification of property for the property tax year commencing January 1, 1996, if the property in question qualifies for classification as agricultural land as determined pursuant to [section 39-1-102 \(1.6\)](#), as amended by Senate Bill 97-039, enacted at the first regular session of the sixty-first general assembly; and any denial of exemption from taxation for property claimed as agricultural and livestock products for the property tax year commencing January 1, 1996, if the property in question qualifies as agricultural and livestock products as determined pursuant to [section 39-1-102 \(1.1\)](#), as amended by Senate Bill 97-039, enacted at the first regular session of the sixty-first general assembly.

(B) The assessor shall certify the proportional amount of the total amount of abatements and refunds granted pursuant to the provisions of this section to the appropriate taxing entities at the same time that the certification of valuation for assessment is made pursuant to the provisions of [section 39-5-128](#). Any taxing entity may adjust the amount of its tax levy authorized pursuant to the provisions of [section 29-1-301, C.R.S.](#), by an additional amount which does not exceed the proportional share of the total amount of abatements and refunds made pursuant to the provisions of this section. After calculating the amount of property tax revenues necessary to satisfy the requirements of the "Public School Finance Act of 1994", article 54 of title 22, C.R.S., any school district shall add an amount equal to the proportional share of the total amount of abatements and refunds granted pursuant to the provisions of this section prior to the setting of the mill levy for such school district. Any additional amount added pursuant to the provisions of this subsection (1) shall not be included in the total amount of revenue levied in said year for the purposes of computing the limit for the succeeding year pursuant to the provisions of [section 29-1-301, C.R.S.](#) Where a final determination is made granting an abatement or refund pursuant to the provisions of this section, the abatement or refund granted shall be payable at such time as determined by the board of county commissioners after consultation with affected taxing entities but no later than upon the payment of property taxes for the property tax year in which said final determination was made. For the purposes of this sub-subparagraph (B), a taxing entity's proportional share of the total amount

of abatements and refunds granted shall be based upon the amount of tax levied by a taxing entity on such real property in proportion to the total amount of tax levied on such real property by such taxing entities.

**(B.5)**Notwithstanding the provisions of sub-subparagraph (B) of this subparagraph (I), no school district shall be required to levy additional amounts for abatements and refunds which are the result of any protests or appeals of valuation upon which final orders or judgments rendered by a court of competent jurisdiction have been issued and which reduce the valuation for assessment of the district by more than twenty percent. Any school district which is currently levying for abatements, refunds, or both and which would not be required to levy such amounts if this sub-subparagraph (B.5) had been in effect for the tax year in which the court orders or judgments were issued shall have no further obligation to levy for uncollected amounts.

**(C)**The 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 abatement of taxes as provided in sub-subparagraph (A) of this subparagraph (I).

**(D)**No abatement or refund of taxes shall be made based upon the ground of overvaluation of property if an objection or protest to such valuation has been made and a notice of determination has been mailed to the taxpayer pursuant to [section 39-5-122](#) or a written decision has been issued pursuant to [section 39-5-122.8](#); except that this prohibition shall not apply to personal property when a notice of determination has been mailed to the taxpayer, an objection or protest is withdrawn or not pursued, and the county assessor has undertaken an audit of such personal property that shows that a reduction in value is warranted.

**(E)**Notwithstanding the periods of limitation for filing a petition for and determining the amount of an abatement or refund of taxes provided in sub-subparagraphs (A) and (D) of this subparagraph (I), when an audit of prior years' taxes for the period described in [section 39-10-101 \(2\)\(b\)](#) discloses that taxes are due and owing on personal property or on mines and on oil and gas leaseholds, such taxes shall be subtracted from any overpayment of such taxes determined to be due pursuant to this subparagraph (I) for any years during such period and prior to computing delinquent interest.

**(F)**Notwithstanding the periods of limitation for filing a petition for and determining the amount of an abatement or refund of taxes provided in sub-subparagraph (A) or (D) of this subparagraph (I), an abatement or refund of taxes may be made to any common interest community for property taxes levied for property tax years commencing on or after January 1, 1985, but prior to January 1, 1996, on property not valued in accordance with [section 39-1-103 \(10\)](#), if a petition for abatement or refund is filed on or before June 1, 1997.

**(II)**Repealed.

**(b)**Any taxes illegally or erroneously levied and collected, and delinquent interest thereon, are refunded pursuant to this section, together with refund interest at the same rate as that provided for delinquent interest set forth in [section 39-10-104.5](#); except that refund interest shall not be paid if the taxes were erroneously levied and collected as a result of an error made by the taxpayer in completing personal property schedules pursuant to the provisions of article 5 of this title 39. For abatements or refunds made pursuant to a petition for abatement or refund filed prior to January 1, 2018, refund interest accrues from the date payment of taxes and delinquent interest thereon was received by the treasurer from the taxpayer; except that refund interest accrues from the date a complete abatement petition is filed if the taxes were erroneously levied and collected as a result of an error or omission made by the taxpayer in completing the statements required pursuant to the provisions of article 7 of this title 39 and the county pays the abatement or refund within the time frame set forth in subsection (1)(a)(I)(B) of this section. For abatements or refunds made pursuant to a petition for abatement or refund filed on or after January 1, 2018, refund interest accrues from the date a complete abatement petition is filed.

**(c)**Notwithstanding any other provision of this section, if a county, board of assessment appeals, court of competent jurisdiction, or the property tax administrator determines that a property is exempt from taxation under [sections 39-3-106 to 39-3-113.5](#) or [section 39-3-116](#), and if the county, board, court, or administrator finds competent evidence that said property became or remained subject to taxation for a period as a result of an error or omission made by the taxpayer, then the county, the board of assessment appeals, court of competent jurisdiction, or the property tax administrator may award refund interest or any other type of interest for not greater than two property tax years. Any interest awarded pursuant to this paragraph (c) shall be at the same rate as provided in [section 39-10-104.5](#).

**(2)(a)** Any taxes levied on personal property, including but not limited to mobile homes, which are determined to be uncollectible after a period of one year after the date of their becoming delinquent may be cancelled by the board of county commissioners.

**(b)**When any real property has been stricken off to a county by virtue of a tax sale and there has been no transfer by the county of a certificate of purchase thereon, the taxes on such property may be determined to be uncollectible after a period of six years from the date of becoming delinquent, and they may be cancelled by the board of county commissioners. Such cancellation shall not affect the rights of the county under article 11 of this title to subsequently transfer any tax sale certificate nor its right to receive a tax deed and to exercise its rights thereunder with respect to such property.

**(3)**The treasurer shall keep a complete record of all taxes abated, refunded, or determined to be uncollectible and cancelled by the board of county commissioners as provided in subsection (2) of this section. The treasurer shall file an annual report with the administrator by August 25 of each year that shall include all taxes abated, refunded, or determined to be uncollectible and cancelled. Such report shall include the name of each owner of taxable property granted such abatement, refund, or cancellation of property taxes, the amount of property taxes abated, refunded, or cancelled, and the date such abatement, refund, or cancellation was granted. The treasurer shall also file an annual report with the department of revenue by August 10 of each year that shall include all taxes on personal property abated or refunded. Such report shall include the name of each owner of taxable personal property granted such abatement or refund of personal property taxes, the schedule number that was the basis for the imposition of the taxes abated or refunded, if applicable, the amount of personal property taxes abated or refunded, and the date such abatement or refund was granted.

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