

The Abatement Process

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

Abatement is the process used to correct property taxes that have been levied erroneously or illegally due to erroneous valuation for assessment, irregularity in levying, clerical error, or overvaluation. While it is a taxpayer's right to file an abatement, approval is not automatic. The taxpayer should be prepared to present evidence that the value or tax is incorrect. In cases of overvaluation, abatement action is barred if a protest was filed and the Assessor mailed a Notice of Determination for the year for which abatement is sought. Abatement petitions must be filed within two years after January 1 of the year following the year in which the taxes were levied. A taxpayer must have proper standing to file an abatement petition. The first criterion is ownership. Abatement petitions may be considered only for assessment years in which the taxpayer owned the property.

In Summit County, the Board of County Commissioners (BOCC) has authorized the Assessor to settle abatements of \$10,000 or less in tax, per schedule per year. When an agreement is not reached between the assessor and taxpayer, or the tax amount exceeds \$10,000, a hearing is conducted at regular session before the BOCC. If the Board approves a petition for over \$10,000 in taxes, the state Property Tax Administrator (PTA) reviews the petition. If the PTA approves the petition, it is returned to the County for processing by the Treasurer. If the PTA or the BOCC denies the petition, in whole or in part, the taxpayer may file an appeal to the Colorado Board of Assessment Appeals (BAA).

Examples of typical abatement situations that **can be approved** include:

- **Illegal Assessment Rate.** A property was erroneously classified, i.e. a residential property was assessed as commercial.
- **Illegal Levy.** A property was assigned an incorrect tax area code and therefore an illegal mill levy was applied.
- **Clerical Errors.** Examples include data entry errors, computation errors, or incorrect data as it has direct impact on the valuation of improvements or land.
- **Real Property changed from Taxable to Exempt.** The value is prorated based on the number of days the property was exempt from taxation (39-3-130, 131, and 132 C.R.S.)
- **Improvement Assessed to Incorrect Parcel.** If the property was incorrectly assessed as improved residential property and the parcel is vacant, the assessment rate applied to the land is changed to reflect the correct assessment rate. (The change in rate may reduce or nullify an abatement.)
- **Double Assessment.** Real or personal property that is on the tax roll twice.
- **Taxpayer Reporting Error.** A taxpayer misreported the amount or value of property owned when completing a personal property declaration schedule.
- **Overvaluation.** A taxpayer believes the value is incorrect for a previous assessment year **and no protest was filed** for that year.
- **Overpayment on Destroyed or Demolished Property.** If the owner fails to notify the assessor of the destruction prior to the levying of taxes, a proportionate valuation is not required.

- Value Adjustments, BAA, or Court Order. These include value or classification adjustments made during protest or county board appeals period that were not reflected on the tax warrant, and changes made by the Colorado Board of Assessment Appeals, District Courts, Court of Appeals, or Supreme Court.
- Tax Lien Sold in Error.

Examples of typical abatement situations that **should be denied** include:

- Best Information Available (BIA) Assessments. When an owner does not file a Personal Property Declaration Schedule the assessor assigns a BIA assessment, and a Notice of Valuation is sent to the owner.
- Personal Property No Longer Used by a Business. If personal property was located in the county on the assessment date, the property is taxable for the entire calendar year. It is important to remember that if property is sold during the calendar year or is put into storage, the property remains taxable for the entire assessment year and an abatement should be disapproved. Property in storage remains on the tax roll until it is sold, removed from the state, or put into use as personal effects.
- Overvaluation. The law precludes owners from filing a protest and an abatement petition for the same assessment year when overvaluation is the reason the abatement was filed. This is true even when ownership changes during the year.
- Late Filing. Abatement or refund of taxes is limited to a maximum of two years after January 1 of the year following the year in which the taxes were levied.
- Tax Lien Certificate Holders. Tax lien certificate holders do not have standing to file petitions for years prior to obtaining a Treasurer's Deed.
- Homeowners Association Common Elements. The value of common elements transferred to a homeowners association after January 1 is not prorated. The full value remains on the tax roll for the current year.

Instructions for Filing:

On the following sheet is an "Example Abatement Petition" form. Do not use this example to file; blank forms are provided on our web site or in our office. Please complete Section I as indicated by the text in red, **including** the tax year(s) you are petitioning and an estimate of value in dollars. before submitting the petition to the Assessor's Office. You should also enclose any documentation you may have to support your opinion of value. If you have questions, you may call or email our office at 970-453-3480 and assessor@summitcountyco.gov.

PETITION FOR ABATEMENT OR REFUND OF TAXES

Summit County, Colorado

Public Hearing
Consent
Treasurer
#

Section I: Petitioners complete Section I only.

EXAMPLE

(date)
Month, Day, Year

Petitioner's Name: _____
(owner's name)

Mailing Address: _____
(owner's address)

SCHEDULE NUMBER
(6 or 7 digit schedule number from tax notice)

DESCRIPTION OF PROPERTY AS LISTED ON TAX ROLL
(legal description from tax notice)

(assessment year(s) of valuation in question)

Petitioner states that the taxes assessed against the above property for property tax year(s) _____ are incorrect for the following reasons: (Briefly describe the circumstances surrounding the incorrect value or tax. **The petitioner's estimate of actual value must be included.**) Attach additional sheets if necessary.

(Description of circumstances surrounding incorrect valuation. Please provide clear and complete documentation to support your estimate of value for your property.)

(correct value of your property based on the documentation provided above)

Petitioner's estimate of actual value: \$ _____ value (_____) and \$ _____ value (_____) year year

Petitioner requests an abatement or refund of the appropriate taxes associated with a reduction in value.

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

DO NOT USE

signature of petitioner (owner) _____
Petitioner Date

By (signature of agent IF USED) _____
Agent* Date

Petitioner's/Agent's daytime phone number _____

Address _____

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

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)

Actual Tax Year _____ Assessed Tax Actual Tax Year _____ Assessed Tax

Original
Correction
Abate/Refund

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

Assessor's or Deputy Assessor's Signature

FLOW CHART, THE ABATEMENT PROCESS

Taxpayer

