

STATE OF COLORADO

DEPARTMENT OF REVENUE

State Capitol Annex
1375 Sherman Street
Denver, CO 80261
Conferee Section, Room 234



December 30, 2011

The Honorable Mary Hodge
Chair, Joint Budget Committee
Colorado General Assembly

The Honorable Brian DelGrosso
Chair, House Finance Committee
Colorado General Assembly

The Honorable Michael Johnston
Chair, Senate Finance Committee
Colorado General Assembly

John Hickenlooper
Governor

Barbara J. Brohl
Executive Director

John Vecchiarelli
Division Director

Dear Senators and Representatives:

Section 39-22-522.5(12), C.R.S., requires the Department of Revenue to submit a quarterly report to the Joint Budget Committee and the Finance Committees of the General Assembly which details the following information:

a) **CASE SPECIFIC INFORMATION**

The number of tax credits claimed pursuant to section 39-22-522 for which the Executive Director mailed a notice of deficiency, notice of rejection of refund claim, or notice of disallowance pursuant to section 39-21-103.

- The Department disallowed conservation easement tax credits in 615 cases.

b) **APPRAISAL SPECIFIC INFORMATION**

The number of such cases sent to the Conservation Easement Oversight Commission (CEOC) for review pursuant to section 12-61-721, C.R.S.

- The Department has sent appraisals to the CEOC for review of all of the cases for which credits have been disallowed.
- As of 12/29/11, the Department sent 670 appraisals (or partial appraisals) to the CEOC for review. Of these 670 appraisals, 9 were for a 2nd review. Therefore, 661 unique appraisals were sent to the CEOC for review.
- NOTE: Some of these appraisals were sent to the CEOC for review prior to the Department disallowing any credits.

c) **CEOC RECOMMENDATIONS**

The number of such cases returned to the Executive Director with the advice of the CEOC created in section 12-61-721(1), C.R.S., and the action, if any, taken by the Department of Revenue on the cases returned by the commission.

- Of the 661 unique appraisals sent for review, 25 are scheduled for review in January 2012.
- The CEOC returned recommendations on 642 cases to the Executive Director after review.
- The CEOC recommended approval of credits in 32 cases involving appraisals which don't appear to violate the Uniform Standards of Professional Appraisal Practice (USPAP).

- The CEOC recommended approval of credits in 33 cases involving appraisals which may violate USPAP.
 - The CEOC recommended rejection of credits in 529 cases.
 - The CEOC offered no opinion on 48 cases.
- d) **MEDIATION PROCESS**
The number and progress of any cases that are in a mediation process and the status of such mediation.
- No new cases have been sent to mediation.
 - NOTE: Per Regulation 39-21-522, enacted September 1, 2011, the Department will treat a request for mediation as an agreement to extend the statutory deadline to hold administrative hearing.
- e) **REFERRALS TO THE ATTORNEY GENERAL'S OFFICE**
The number of cases referred to the Attorney General's office for resolution.
- As of 12/29/11, 470 cases have been sent forward to the Attorney's General's office for resolution.
 - 4 of these cases had a formal hearing pursuant to Section 39-21-103, C.R.S. in which the Executive Director's designee ruled in favor of the Department. These 4 cases are currently on appeal in District Court.
 - Elections have been made pursuant to Section 39-21-522.5 in 495 of the 542 cases subject to HB11-1300: 464 made an election to waive the administrative hearing and appeal to District Court; 31 made an election to remain in the administrative process and requested an expedited hearing; 47 made no elections.
 - As of 12/29/11, the Department has received 28 requests by Transferees to change the Tax Matters Representative in the cases involving no elections.
- f) **CASES RESOLVED BY THE DEPARTMENT OF REVENUE**
The number of cases resolved by the Department of Revenue.
- The Department sent Notices of Final Determination in 4 of the cases sent to the Attorney General's office prior to the effective date of House Bill 11-1300. These 4 cases are currently on appeal in District Court
 - The Department has settled 18 cases involving \$3,457,441 in credits claimed.
- g) **DOLLAR AMOUNTS OWED OR WAIVED**
The amount of deficient taxes, interest, and penalties determined to be owed or waived by the Department of Revenue in administering the resolution of cases.
- In the 4 cases resolved by the Department, Notices of Final Determination were issued in the amount of \$1,581,396 (\$960,910 in taxes, \$513,314 in interest, and \$107,172 in penalties); \$2,469 was waived (\$1,440 in taxes, \$856 in interest, and \$173 in penalties).
 - In the 18 cases settled by the Department, \$1,352,670 was determined to be owed (\$1,351,617 in taxes, \$619 in interest, and \$434 in penalties); \$3,334,988 was waived (\$2,105,824 in taxes, \$868,646 in interest, and \$360,518 in penalties).
- h) **CREDITS ALLOWED IN FULL**
The number and total amount of credits that were originally contested but subsequently allowed to be claimed in full.
- Of the 32 appraisals which don't appear to violate USPAP and the CEOC recommended for approval, only 16 were originally disallowed by the Department. (The remaining 16 were merely reviewed without having had the credit disallowed.) Of the 16 appraisals which involved disallowed credits, 9 of these cases consisting of \$2,683,150 in credits were subsequently allowed in full.
 - The Department is continuing to work on resolving those cases with favorable recommendations from the CEOC.
- i) **DOLLAR AMOUNTS EXPENDED**
The amount of moneys expended by the Department of Revenue in administering the resolution of cases.

- Between July 2011 and December 2011, the Department spent \$979,665 on the resolution of disputed conservation easement cases as follows:
 - Salary and Benefits: \$309,404;
 - Appraisals: \$101,413;
 - Attorney General Costs: \$565,998; and
 - General Operating Expenses: \$2,850

Sincerely,



Barbara J. Brohl
Executive Director
Colorado Department of Revenue

Cc: Members of the Joint Budget Committee, Colorado General Assembly
Members of the House Finance Committee, Colorado General Assembly
Members of the Senate Finance Committee, Colorado General Assembly

Joint Budget Committee Members:

The Honorable Pat Steadman, Joint Budget Committee, Colorado General Assembly
The Honorable Kent Lambert, Joint Budget Committee, Colorado General Assembly
The Honorable Cheri Gerou, Joint Budget Committee, Colorado General Assembly
The Honorable Jon Becker, Joint Budget Committee, Colorado General Assembly
The Honorable Claire Levy, Joint Budget Committee, Colorado General Assembly

House Finance Committee Members:

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The Honorable Cindy Acree, House Finance Committee, Colorado General Assembly
The Honorable Don Beezley, House Finance Committee, Colorado General Assembly
The Honorable Kathleen Conti, House Finance Committee, Colorado General Assembly
The Honorable Crisanta Duran, House Finance Committee, Colorado General Assembly
The Honorable Dickey Lee Hullinghorst, House Finance Committee, Colorado General Assembly
The Honorable Janak Joshi, House Finance Committee, Colorado General Assembly
The Honorable Daniel Kagan, House Finance Committee, Colorado General Assembly
The Honorable John Kefalas, House Finance Committee, Colorado General Assembly
The Honorable Jeanne Labuda, House Finance Committee, Colorado General Assembly
The Honorable Dan Pabon, House Finance Committee, Colorado General Assembly
The Honorable Spencer Swalm, House Finance Committee, Colorado General Assembly

Senate Finance Committee Members:

The Honorable Angela Giron, Senate Finance Committee, Colorado General Assembly
The Honorable Greg Brophy, Senate Finance Committee, Colorado General Assembly
The Honorable Lucia Guzman, Senate Finance Committee, Colorado General Assembly
The Honorable Cheri Jahn, Senate Finance Committee, Colorado General Assembly
The Honorable Keith King, Senate Finance Committee, Colorado General Assembly
The Honorable Mark Scheffel, Senate Finance Committee, Colorado General Assembly