

STATE OF COLORADO

DEPARTMENT OF REVENUE

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John W. Hickenlooper
Governor

Barbara J. Brohl
Executive Director

April 2, 2012

The Honorable Cheri Gerou
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

Dear Senators and Representatives:

Section 39-22-522.5(12), C.R.S., requires the Department of Revenue (DOR) 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 621 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 03/29/12, the Department sent 676 appraisals (or partial appraisals) to the CEOC for review. Of these 676 appraisals, 9 were for a 2nd review. Therefore, 667 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.

- The CEOC returned recommendations to the Executive Director on all of the 667 unique appraisals sent for review.
- The CEOC recommended approval of credits in 35 cases involving appraisals which don't appear to violate the Uniform Standards of Professional Appraisal Practice (USPAP).
- The CEOC recommended approval of credits in 36 cases involving appraisals which may violate USPAP.
- The CEOC recommended rejection of credits in 549 cases.
- The CEOC offered no opinion on 47 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 03/29/12, 471 cases have been sent forward to the Attorney General's office for resolution.
- Four of the 471 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 498 of the 543 cases subject to HB11-1300: 467 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; 45 made no elections.
- As of 03/29/12, the Department has received 28 petitions by Transferees to change the Tax Matters Representative in the cases involving no elections. Four of these 28 petitions have been granted.

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 sent Notices of Final Determination to the Tax Matters Representative and Transferees in 1 case not subject to House Bill 11-1300 that was not timely protested.
- The Department has settled 22 cases involving \$4,348,525 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.

- The 5 cases in which Notices of Final Determination were issued by the Department involved a total assessed amount of \$1,787,641 (\$1,107,028 in taxes, \$555,907 in interest, and \$124,706 in penalties); \$2,469 was waived (\$1,440 in taxes, \$856 in interest, and \$173 in penalties).

- In the 22 cases settled by the Department, \$1,703,811 was determined to be owed (\$1,699,436 in taxes, \$3,941 in interest, and \$434 in penalties); \$4,149,150 was waived (\$2,649,089 in taxes, \$1,058,848 in interest, and \$441,213 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 35 appraisals which don't appear to violate USPAP and the CEOC recommended for approval, only 19 were originally disallowed by the Department. (The remaining 16 were merely reviewed without having had the credit disallowed.) Of the 19 appraisals which involved disallowed credits, 10 of these cases consisting of \$2,824,150 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 March 2012, the Department spent \$1,594,864 on the resolution of disputed conservation easement cases as follows:
 - DOR Salary and Benefits: \$443,086;
 - Appraisals: \$101,413;
 - Attorney General Costs: \$1,046,090; and
 - General Operating Expenses: \$4,275

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

House Finance Committee Members:

The Honorable Keith Swerdfeger, House Finance Committee, Colorado General Assembly
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 Chris Holbert, House Finance Committee, Colorado General Assembly
The Honorable Dickie Lee Hullinghorst, House Finance Committee, Colorado General Assembly
The Honorable Janak Joshi, House Finance Committee, Colorado General Assembly
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The Honorable Dan Pabon, House Finance Committee, Colorado General Assembly
The Honorable Spencer Swalm, House Finance Committee, Colorado General Assembly

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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