

ORIGINAL HOUSE
BILL NO. 0184

ENROLLED ACT NO. 83, HOUSE OF REPRESENTATIVES

SIXTIETH LEGISLATURE OF THE STATE OF WYOMING
2009 GENERAL SESSION

AN ACT relating to taxation and revenue; providing for amendments to mineral taxation enforcement provisions as specified; limiting the time period for filing requests for refunds as specified; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 39-14-108(b)(iii), 39-14-109(c)(i), (ii) and by creating a new paragraph (iii) and (d)(ii), 39-14-208(b)(iii), 39-14-209(c)(i), (ii) and by creating a new paragraph (iii) and (d)(iii), 39-14-308(b)(iii), 39-14-309(c)(i), (ii) and by creating a new paragraph (iii) and (d)(ii), 39-14-408(b)(iii), 39-14-409(c)(i), (ii) and by creating a new paragraph (iii) and (d)(ii), 39-14-508(b)(iii), 39-14-509(c)(i), (ii) and by creating a new paragraph (iii) and (d)(ii), 39-14-608(b)(iii), 39-14-609(c)(i), (ii) and by creating a new paragraph (iii) and (d)(ii), 39-14-708(b)(iii) and 39-14-709(c)(i), (ii) and by creating a new paragraph (iii) and (d)(ii) are amended to read:

39-14-108. Enforcement.

(b) Audits. The following shall apply:

(iii) Commencing January 1, 2003, the department is authorized to rely on final audit findings, taxpayer amended returns or department review, and to certify mine product valuation amendments to the county assessor of the county in which the property is located, to be entered upon the assessment rolls of the county and taxes computed and collected thereon subject to appeal under W.S. 39-14-109(b)(ii), provided that the return is filed within three (3) years from the date the production should have been ~~or was~~ reported pursuant to W.S. 39-14-107(a)(i),

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~~whichever is later,~~ and that the audit or review commenced within the time period as required by paragraph (vii) of this subsection. Commencement of an audit, completion of an audit, and final audit findings and final determination by the department being issued to the taxpayer shall not preclude the taxpayer from filing amended returns within the time period specified herein, and the amended returns may be audited within the time period stated in paragraph (vii) of this subsection;

39-14-109. Taxpayer remedies.

(c) Refunds. The following shall apply:

~~(i) If any person pays any tax, or portion thereof, found to have been erroneous or illegal, the board of county commissioners shall direct the county treasurer to refund the erroneous or illegal payment to the taxpayer. When an increase in the value of any product is subject to the approval of any agency of the United States of America or the state of Wyoming, or of any court, the increased value shall be subject to property taxation. In the event the increase in value is disapproved, either in whole or in part, then the amount of tax which has been paid on the disapproved part of the value shall be considered excess tax. Within one (1) year following the final determination of value, any person who has paid any such excess tax may apply for a refund, and the board of county commissioners shall refund the amount of excess tax paid.~~ If a taxpayer has reason to believe that ad valorem taxes imposed by this article have been overpaid, a request for refund shall be filed with the department by submitting amended returns within three (3) years from the date the production should have been reported pursuant to W.S. 39-14-107(a)(i). Any refund granted shall be subject to modification or revocation upon audit;

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(ii) If a taxpayer has reason to believe that taxes imposed by this article have been overpaid, a request for refund shall be filed with the department ~~on forms it prescribes prior to the end of the fifth calendar year following the calendar year which included the month for which overpayment was made~~ by submitting an amended return within three (3) years from the date the production should have been reported pursuant to W.S. 39-14-107(a)(i). Refunds of two thousand dollars (\$2,000.00), or less may be applied to subsequent payments for taxes imposed by this article. Requests for refunds exceeding two thousand dollars (\$2,000.00) shall be approved in writing by the department prior to the taxpayer receiving credit. All refunds granted are subject to modification or revocation upon audit.:-

(iii) Notwithstanding paragraphs (i) and (ii) of this subsection, the taxpayer is entitled to receive a refund of any overpaid ad valorem or severance tax identified by an audit regardless of whether a refund has been requested.

(d) Credits. The following shall apply:

(ii) The taxpayer is entitled to receive an offsetting credit for any overpaid gross product or severance tax identified by an audit that is within the scope of the audit ~~period,~~ without regard to the limitation period for requesting refunds;

39-14-208. Enforcement.

(b) Audits. The following shall apply:

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(iii) Commencing January 1, 2003, the department is authorized to rely on final audit findings, taxpayer amended returns or department review, and to certify mine product valuation amendments to the county assessor of the county from which the crude oil, lease condensate or natural gas was produced, to be entered upon the assessment rolls of the county and taxes computed and collected thereon subject to appeal under W.S. 39-14-209(b)(v), provided that the return is filed within three (3) years from the date the production should have been ~~or was~~ reported pursuant to W.S. 39-14-207(a)(i), ~~whichever is later,~~ and that the audit or review commenced within the time period as required by paragraph (vii) of this subsection. Commencement of an audit, completion of an audit, and final audit findings and final determination by the department being issued to the taxpayer shall not preclude the taxpayer from filing amended returns within the time period specified herein, and the amended returns may be audited within the time period stated in paragraph (vii) of this subsection;

39-14-209. Taxpayer remedies.

(c) Refunds. The following shall apply:

~~(i) If any person pays any ad valorem tax, or portion thereof, found to have been erroneous or illegal, the board of county commissioners shall direct the county treasurer to refund the erroneous or illegal payment to the taxpayer. When an increase in the value of any product is subject to the approval of any agency of the United States of America or the state of Wyoming, or of any court, the increased value shall be subject to ad valorem taxation. In the event the increase in value is disapproved, either in whole or in part, then the amount of tax which has been paid on the disapproved part of the value shall be~~

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~~considered excess tax. Within one (1) year following the final determination of value, any person who has paid any such excess tax may apply for a refund, and the board of county commissioners shall refund the amount of excess tax paid.~~ If a taxpayer has reason to believe that ad valorem taxes imposed by this article have been overpaid, a request for refund shall be filed with the department by submitting amended returns within three (3) years from the date the production should have been reported pursuant to W.S. 39-14-207(a)(i). Any refund granted shall be subject to modification or revocation upon audit;

(ii) If a taxpayer has reason to believe that severance taxes imposed by this article have been overpaid, a request for refund shall be filed with the department ~~on forms it prescribes prior to the end of the fifth calendar year following the calendar year which included the month for which overpayment was made~~ by submitting an amended return within three (3) years from the date the production should have been reported pursuant to W.S. 39-14-207(a)(i). Refunds of two thousand dollars (\$2,000.00), or less may be applied to subsequent payments for severance taxes imposed by this article. Requests for refunds exceeding two thousand dollars (\$2,000.00) shall be approved in writing by the department prior to the taxpayer receiving credit. All refunds granted are subject to modification or revocation upon audit;:-

(iii) Notwithstanding paragraphs (i) and (ii) of this subsection, the taxpayer is entitled to receive a refund of any overpaid ad valorem or severance tax identified by an audit regardless of whether a refund has been requested.

(d) Credits. The following shall apply:

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(iii) The taxpayer is entitled to receive an offsetting credit for any overpaid ad valorem or severance tax identified by an audit that is within the scope of the audit ~~period,~~ without regard to the limitation period for requesting refunds.

39-14-308. Enforcement.

(b) Audits. The following shall apply:

(iii) Commencing January 1, 2003, the department is authorized to rely on final audit findings, taxpayer amended returns or department review, and to certify mine product valuation amendments to the county assessor of the county in which the property is located, to be entered upon the assessment rolls of the county and taxes computed and collected thereon subject to appeal under W.S. 39-14-309(b)(ii), provided that the return is filed within three (3) years from the date the production should have been ~~or was~~ reported pursuant to W.S. 39-14-307(a)(i), ~~whichever is later,~~ and that the audit or review commenced within the time period as required by paragraph (vii) of this subsection. Commencement of an audit, completion of an audit, and final audit findings and final determination by the department being issued to the taxpayer shall not preclude the taxpayer from filing amended returns within the time period specified herein, and the amended returns may be audited within the time period stated in paragraph (vii) of this subsection;

39-14-309. Taxpayer remedies.

(c) Refunds. The following shall apply:

(i) ~~If any person pays any tax, or portion thereof, found to have been erroneous or illegal, the board~~

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~~of county commissioners shall direct the county treasurer to refund the erroneous or illegal payment to the taxpayer. When an increase in the value of any product is subject to the approval of any agency of the United States of America or the state of Wyoming, or of any court, the increased value shall be subject to property taxation. In the event the increase in value is disapproved, either in whole or in part, then the amount of tax which has been paid on the disapproved part of the value shall be considered excess tax. Within one (1) year following the final determination of value, any person who has paid any such excess tax may apply for a refund, and the board of county commissioners shall refund the amount of excess tax paid.~~ If a taxpayer has reason to believe that ad valorem taxes imposed by this article have been overpaid, a request for refund shall be filed with the department by submitting amended returns within three (3) years from the date the production should have been reported pursuant to W.S. 39-14-307(a)(i). Any refund granted shall be subject to modification or revocation upon audit;

(ii) ~~If a taxpayer has reason to believe that taxes imposed by this article have been overpaid, a request for refund shall be filed with the department on forms it prescribes prior to the end of the fifth calendar year following the calendar year which included the month for which overpayment was made~~ by submitting an amended return within three (3) years from the date the production should have been reported pursuant to W.S. 39-14-307(a)(i). Refunds of two thousand dollars (\$2,000.00), or less may be applied to subsequent payments for taxes imposed by this article. Requests for refunds exceeding two thousand dollars (\$2,000.00) shall be approved in writing by the department prior to the taxpayer receiving credit. All refunds granted are subject to modification or revocation upon audit.i

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(iii) Notwithstanding paragraphs (i) and (ii) of this subsection, the taxpayer is entitled to receive a refund of any overpaid ad valorem or severance tax identified by an audit regardless of whether a refund has been requested.

(d) Credits. The following shall apply:

(ii) The taxpayer is entitled to receive an offsetting credit for any overpaid gross product or severance tax identified by an audit that is within the scope of the audit ~~period,~~ without regard to the limitation period for requesting refunds;

39-14-408. Enforcement.

(b) Audits. The following shall apply:

(iii) Commencing January 1, 2003, the department is authorized to rely on final audit findings, taxpayer amended returns or department review, and to certify mine product valuation amendments to the county assessor of the county in which the property is located, to be entered upon the assessment rolls of the county and taxes computed and collected thereon subject to appeal under W.S. 39-14-409(b)(ii), provided that the return is filed within three (3) years from the date the production should have been ~~or was~~ reported pursuant to W.S. 39-14-407(a)(i), ~~whichever is later,~~ and that the audit or review commenced within the time period as required by paragraph (vii) of this subsection. Commencement of an audit, completion of an audit, and final audit findings and final determination by the department being issued to the taxpayer shall not preclude the taxpayer from filing amended returns within the time period specified herein, and the amended returns

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may be audited within the time period stated in paragraph (vii) of this subsection;

39-14-409. Taxpayer remedies.

(c) Refunds. The following shall apply:

~~(i) If any person pays any tax, or portion thereof, found to have been erroneous or illegal, the board of county commissioners shall direct the county treasurer to refund the erroneous or illegal payment to the taxpayer. When an increase in the value of any product is subject to the approval of any agency of the United States of America or the state of Wyoming, or of any court, the increased value shall be subject to property taxation. In the event the increase in value is disapproved, either in whole or in part, then the amount of tax which has been paid on the disapproved part of the value shall be considered excess tax. Within one (1) year following the final determination of value, any person who has paid any such excess tax may apply for a refund, and the board of county commissioners shall refund the amount of excess tax paid.~~ If a taxpayer has reason to believe that ad valorem taxes imposed by this article have been overpaid, a request for refund shall be filed with the department by submitting amended returns within three (3) years from the date the production should have been reported pursuant to W.S. 39-14-407(a)(i). Any refund granted shall be subject to modification or revocation upon audit;

(ii) If a taxpayer has reason to believe that taxes imposed by this article have been overpaid, a request for refund shall be filed with the department ~~on forms it prescribes prior to the end of the fifth calendar year following the calendar year which included the month for which overpayment was made~~ by submitting an amended return

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within three (3) years from the date the production should have been reported pursuant to W.S. 39-14-407(a)(i). Refunds of two thousand dollars (\$2,000.00), or less may be applied to subsequent payments for taxes imposed by this article. Requests for refunds exceeding two thousand dollars (\$2,000.00) shall be approved in writing by the department prior to the taxpayer receiving credit. All refunds granted are subject to modification or revocation upon audit;~~i-~~

(iii) Notwithstanding paragraphs (i) and (ii) of this subsection, the taxpayer is entitled to receive a refund of any overpaid ad valorem or severance tax identified by an audit regardless of whether a refund has been requested.

(d) Credits. The following shall apply:

(ii) The taxpayer is entitled to receive an offsetting credit for any overpaid gross product or severance tax identified by an audit that is within the scope of the audit ~~period,~~ without regard to the limitation period for requesting refunds;

39-14-508. Enforcement.

(b) Audits. The following shall apply:

(iii) Commencing January 1, 2003, the department is authorized to rely on final audit findings, taxpayer amended returns or department review, and to certify mine product valuation amendments to the county assessor of the county in which the property is located, to be entered upon the assessment rolls of the county and taxes computed and collected thereon subject to appeal under W.S. 39-14-509(b)(ii), provided that the return is filed within

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three (3) years from the date the production should have been ~~or was~~ reported pursuant to W.S. 39-14-507(a)(i), ~~whichever is later,~~ and that the audit or review commenced within the time period as required by paragraph (vii) of this subsection. Commencement of an audit, completion of an audit, and final audit findings and final determination by the department being issued to the taxpayer shall not preclude the taxpayer from filing amended returns within the time period specified herein, and the amended returns may be audited within the time period stated in paragraph (vii) of this subsection;

39-14-509. Taxpayer remedies.

(c) Refunds. The following shall apply:

~~(i) If any person pays any tax, or portion thereof, found to have been erroneous or illegal, the board of county commissioners shall direct the county treasurer to refund the erroneous or illegal payment to the taxpayer. When an increase in the value of any product is subject to the approval of any agency of the United States of America or the state of Wyoming, or of any court, the increased value shall be subject to property taxation. In the event the increase in value is disapproved, either in whole or in part, then the amount of tax which has been paid on the disapproved part of the value shall be considered excess tax. Within one (1) year following the final determination of value, any person who has paid any such excess tax may apply for a refund, and the board of county commissioners shall refund the amount of excess tax paid.~~ If a taxpayer has reason to believe that ad valorem taxes imposed by this article have been overpaid, a request for refund shall be filed with the department by submitting amended returns within three (3) years from the date the production should have been reported pursuant to W.S. 39-14-507(a)(i). Any

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refund granted shall be subject to modification or revocation upon audit;

(ii) If a taxpayer has reason to believe that taxes imposed by this article have been overpaid, a request for refund shall be filed with the department ~~on forms it prescribes prior to the end of the fifth calendar year following the calendar year which included the month for which overpayment was made~~ by submitting an amended return within three (3) years from the date the production should have been reported pursuant to W.S. 39-14-507(a)(i). Refunds of two thousand dollars (\$2,000.00), or less may be applied to subsequent payments for taxes imposed by this article. Requests for refunds exceeding two thousand dollars (\$2,000.00) shall be approved in writing by the department prior to the taxpayer receiving credit. All refunds granted are subject to modification or revocation upon audit;~~;~~

(iii) Notwithstanding paragraphs (i) and (ii) of this subsection, the taxpayer is entitled to receive a refund of any overpaid ad valorem or severance tax identified by an audit regardless of whether a refund has been requested.

(d) Credits. The following shall apply:

(ii) The taxpayer is entitled to receive an offsetting credit for any overpaid gross product or severance tax identified by an audit that is within the scope of the audit ~~period,~~ without regard to the limitation period for requesting refunds;

39-14-608. Enforcement.

(b) Audits. The following shall apply:

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(iii) Commencing January 1, 2003, the department is authorized to rely on final audit findings, taxpayer amended returns or department review, and to certify mine product valuation amendments to the county assessor of the county in which the property is located, to be entered upon the assessment rolls of the county and taxes computed and collected thereon subject to appeal under W.S. 39-14-609(b)(ii), provided that the return is filed within three (3) years from the date the production should have been ~~or was~~ reported pursuant to W.S. 39-14-607(a)(i), ~~whichever is later,~~ and that the audit or review commenced within the time period as required by paragraph (vii) of this subsection. Commencement of an audit, completion of an audit, and final audit findings and final determination by the department being issued to the taxpayer shall not preclude the taxpayer from filing amended returns within the time period specified herein, and the amended return may be audited within the time period stated in paragraph (vii) of this subsection;

39-14-609. Taxpayer remedies.

(c) Refunds. The following shall apply:

~~(i) If any person pays any tax, or portion thereof, found to have been erroneous or illegal, the board of county commissioners shall direct the county treasurer to refund the erroneous or illegal payment to the taxpayer. When an increase in the value of any product is subject to the approval of any agency of the United States of America or the state of Wyoming, or of any court, the increased value shall be subject to property taxation. In the event the increase in value is disapproved, either in whole or in part, then the amount of tax which has been paid on the disapproved part of the value shall be considered excess~~

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~~tax. Within one (1) year following the final determination of value, any person who has paid any such excess tax may apply for a refund, and the board of county commissioners shall refund the amount of excess tax paid.~~ If a taxpayer has reason to believe that ad valorem taxes imposed by this article have been overpaid, a request for refund shall be filed with the department by submitting amended returns within three (3) years from the date the production should have been reported pursuant to W.S. 39-14-607(a)(i). Any refund granted shall be subject to modification or revocation upon audit;

(ii) If a taxpayer has reason to believe that taxes imposed by this article have been overpaid, a request for refund shall be filed with the department ~~on forms it prescribes prior to the end of the fifth calendar year following the calendar year which included the month for which overpayment was made~~ by submitting an amended return within three (3) years from the date the production should have been reported pursuant to W.S. 39-14-607(a)(i). Refunds of two thousand dollars (\$2,000.00), or less may be applied to subsequent payments for taxes imposed by this article. Requests for refunds exceeding two thousand dollars (\$2,000.00) shall be approved in writing by the department prior to the taxpayer receiving credit. All refunds granted are subject to modification or revocation upon audit;:-

(iii) Notwithstanding paragraphs (i) and (ii) of this subsection, the taxpayer is entitled to receive a refund of any overpaid ad valorem or severance tax identified by an audit regardless of whether a refund has been requested.

(d) Credits. The following shall apply:

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(ii) The taxpayer is entitled to receive an offsetting credit for any overpaid gross product or severance tax identified by an audit that is within the scope of the audit ~~period,~~ without regard to the limitation period for requesting refunds;

39-14-708. Enforcement.

(b) Audits. The following shall apply:

(iii) Commencing January 1, 2003, the department is authorized to rely on final audit findings, taxpayer amended returns or department review, and to certify mine product valuation amendments to the county assessor of the county in which the property is located, to be entered upon the assessment rolls of the county and taxes computed and collected thereon subject to appeal under W.S. 39-14-709(b)(ii), provided that the return is filed within three (3) years from the date the production should have been ~~or was~~ reported pursuant to W.S. 39-14-707(a)(i), ~~whichever is later,~~ and that the audit or review commenced within the time period as required by paragraph (vii) of this subsection. Commencement of an audit, completion of an audit, and final audit findings and final determination by the department being issued to the taxpayer shall not preclude the taxpayer from filing amended returns within the time period specified herein, and the amended returns may be audited within the time period stated in paragraph (vii) of this subsection;

39-14-709. Taxpayer remedies.

(c) Refunds. The following shall apply:

(i) ~~If any person pays any tax, or portion thereof, found to have been erroneous or illegal, the board~~

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~~of county commissioners shall direct the county treasurer to refund the erroneous or illegal payment to the taxpayer. When an increase in the value of any product is subject to the approval of any agency of the United States of America or the state of Wyoming, or of any court, the increased value shall be subject to property taxation. In the event the increase in value is disapproved, either in whole or in part, then the amount of tax which has been paid on the disapproved part of the value shall be considered excess tax. Within one (1) year following the final determination of value, any person who has paid any such excess tax may apply for a refund, and the board of county commissioners shall refund the amount of excess tax paid.~~ If a taxpayer has reason to believe that ad valorem taxes imposed by this article have been overpaid, a request for refund shall be filed with the department by submitting amended returns within three (3) years from the date the production should have been reported pursuant to W.S. 39-14-707(a)(i). Any refund granted shall be subject to modification or revocation upon audit;

(ii) ~~If a taxpayer has reason to believe that taxes imposed by this article have been overpaid, a request for refund shall be filed with the department on forms it prescribes prior to the end of the fifth calendar year following the calendar year which included the month for which overpayment was made~~ by submitting an amended return within three (3) years from the date the production should have been reported pursuant to W.S. 39-14-707(a)(i). Refunds of two thousand dollars (\$2,000.00), or less may be applied to subsequent payments for taxes imposed by this article. Requests for refunds exceeding two thousand dollars (\$2,000.00) shall be approved in writing by the department prior to the taxpayer receiving credit. All refunds granted are subject to modification or revocation upon audit.i

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(iii) Notwithstanding paragraphs (i) and (ii) of this subsection, the taxpayer is entitled to receive a refund of any overpaid ad valorem or severance tax identified by an audit regardless of whether a refund has been requested.

(d) Credits. The following shall apply:

(ii) The taxpayer is entitled to receive an offsetting credit for any overpaid gross product or severance tax identified by an audit that is within the scope of the audit ~~period~~, without regard to the limitation period for requesting refunds;

Section 2. All mineral producers subject to the provisions of this act shall file any requests for refunds for production year 2005 no later than June 30, 2009. All refunds for production years prior to 2005 are barred as of the effective date of this act or by operation of law, unless such refunds are identified within an audit under the terms of this act.

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Section 3. This act is effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk