

**STATE BOARD OF EQUALIZATION**

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January 11, 2023

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To: Members of the Senate Revenue Committee
From: Marty Hardsocg, Wyoming State Board of Equalization
Date: January 12, 2023
Re: SF0039 Board of Equalization – questions before the board.

Summary: The Bill clarifies that the Board of Equalization has authority to resolve tax disputes by considering not only the law focused on by the parties, but any relevant law or points of authority when the parties have failed to do so.

The State Board of Equalization is Wyoming's "tax court," authorized to hear and rule upon state tax disputes. Wyo. Stat. Ann. § 39-11-102.1(c). These tax disputes arise between taxpayers and the Wyoming Department of Revenue or Department of Transportation. The Board also hears appeals from County Board of Equalization decisions, which rule upon disputes between taxpayers and county assessors. The State Board currently has authority to "[d]ecide all questions that may arise with reference to the construction of any statute affecting the assessment, levy and collection of taxes, in accordance with the rules, regulations, orders and instructions prescribed by the department." Wyo. Stat. Ann. § 39-11-102.1(c)(iv).

In a recent mineral valuation dispute between the Department of Revenue and a mineral taxpayer, the Board discovered that the Department and taxpayer had not considered the entire statute. The taxpayer had appealed the Department's valuation decision to the Board, asking the Board to reverse the Department's manner of allowing a specific cost deduction. While the parties argued about how to calculate the deduction, the Board questioned whether any

deduction was proper under the valuation statute. The Board suggested that the statutory valuation framework did not allow the additional deduction, and that the parties had misunderstood the valuation statute in total.

The Board required the parties to consider and brief before the Board whether the expense deduction at issue was permitted under the statute as interpreted by the Board. The Board heard arguments, allowing the parties to fully review and address the Board's concerns. Citing the issue and law it raised, the Board found that no additional deduction was available under the statutory law at issue—the question the parties had ignored.

The Taxpayer did not like that the Board raised an issue initially ignored by the parties, but which was clearly relevant to the dispute. However, the Department agreed with the Board's concern. On the taxpayer's appeal to the Wyoming Supreme Court, the Court held that the Board lacked authority to raise the question the parties had not raised, even though the question was clearly relevant to the valuation dispute.

Notably, the same issue arose the next year, but this time the Department denied the deduction consistent with how the Board had interpreted the law during the previous cycle. When the taxpayer again appealed from the Board's decision to the Wyoming Supreme Court the second time, the Court agreed with the Board that no additional deduction was allowed. The point: by allowing the Board to properly consider all aspects of the law the first time, the parties would have saved the costs and expenses of re-litigating the valuation dispute a second time. Also, there would be less danger that an incomplete legal ruling would become binding case law precedent, and that other interested parties would be misinformed as to the law.

The change to statutory language in SF0039 makes clear that the Board, like any court, may fully examine the law when rendering a tax decision, even aspects of the law that the parties mistakenly fail to consider. In other words, the Board is not limited to the parties' understanding of the law and may consider interpretations the parties fail to consider. This ensures that tax dispute resolutions are comprehensive and accurate. In every case, the parties may appeal the Board's rulings to the district courts.

It's important to also understand that this does not empower the Board to force parties to fight; however, when parties dispute a tax assessment, the Board must be able to consider all relevant legal authority, even if the parties have failed to do so.