



An Inadvertent Mistake in the Overvaluation of Oil and Gas Property by the Operator is Not the End of the Line

By: [Karen Spaulding](#)

The Colorado Supreme Court recently reversed a Court of Appeals (“COA”) decision in which the COA held that OXY was not permitted to seek abatement and refund of its overvalued oil and gas property in tax year 2011 because it made the mistake in its overvaluation of its property rather than Mesa County. The decision in *OXY USA Inc. v. Mesa County Board of Comm’rs*, 2017 CO 104 (Nov. 13, 2017) (*en banc*) is attached [here](#).

In reversing the COA, the Colorado Supreme Court looked at the 1991 Legislative amendments to C.R.S. § 39-10-114(1)(a)(I)(A). The plain meaning of the statute requires a county board of commissioners to refund property taxes that were “levied erroneously or illegally, whether due to erroneous valuation for assessment, irregularity in levying, clerical error, or overvaluation.” This 1991 legislative addition expressly included that the abatement apply to an “overvaluation,” because of the likelihood of the taxpayer not realizing the overpayment error during the period of a permitted protest.

In this case, OXY filed for an abatement of overpaid taxes when it realized it had failed to deduct certain allowable costs from its net taxable revenue. Further, its request for a refund under the statute was made after the time for filing a protest of the tax assessment had passed. The COA denied the refund request because OXY made the overvaluation and overpayment by its own inadvertence rather than by a mistake made by the assessor’s office. In reviewing the plain meaning of this statute, the Supreme Court held that OXY was entitled to a refund of its mistakenly overvalued property taxes. The Court stated that nowhere in the language of C.R.S. § 39-10-114(1)(a)(I)(A) does it provide that the taxpayer is only entitled to a refund if the assessor made the overvaluation mistake.

Note - As long as the operator overvalues the oil and gas sold through its own inadvertence, the operator may seek a refund of overpaid taxes pursuant to the statute even after the time for filing a protest has expired. However, the Supreme Court was clear that if a taxpayer makes an “intentional overvaluation” of its property, it may not avail itself of the relief afforded under this statute.

For more information on this topic, please contact [Karen Spaulding](#).

Copyright © 2017 Beatty & Wozniak, P.C. All Rights Reserved.

This newsletter does not constitute legal advice. The views expressed in this newsletter are the views of the authors and not necessarily the views of the firm. Please consult with legal counsel for specific advice and or information.

[Read our complete legal disclaimer](#)