

**COLORADO DEPARTMENT OF REVENUE
GROSS CONSERVATION EASEMENT**

GUIDELINE FOR PENALTY AND INTEREST

This Guideline applies only to Gross Conservation Easement (GCE) cases in the Department of Revenue for which a Notice of Deficiency, Notice of Disallowance, or Notice of Rejection of Refund Claim, had been mailed by the Department as of May 1, 2011 but for which a Final Determination had not been issued by May 19, 2011.

TMRs Who Appeal Directly to District Court

In accordance with Section 39-22-522.5(1)(h) and (2)(c), C.R.S., tax matter representatives (TMRs) who elect to appeal directly to district court do not have to deposit the disputed amount of tax with the Department and are not required to post the surety bond typically required by Section 39-21-105 C.R.S. for such appeal. In addition, no additional amounts of penalty or interest will accrue from the date the Notice of Appeal is received by the district court until such time that the district court issues its decision. See § 39-22-522.5(2)(d), C.R.S.

TMRs Who Proceed with the Administrative Hearing or Administrative Written Brief in Lieu of Hearing

For TMRs who proceed with the administrative hearing process before the Department under Sections 39-22-522.5(3) and (4), C.R.S., rather than appealing directly to district court, Section 39-22-522.5(11), C.R.S. provides for waiver of additional amounts of penalty and interest upon payment of an amount agreed to by the Department. To benefit from this provision, payment of the agreed upon amount must be made on or before June 30, 2012. Payment of 75% of the tax assessed for the disputed GCE credit utilized will result in no additional amounts of penalty or interest accruing from the date of payment until such time that the Department issues a Final Determination and Demand for Payment. In exceptional circumstances, the Executive Director of the Department may require or allow payment of an amount greater than or less than the 75%.

A form will be available on the Department's website that should be used by taxpayers who wish to submit payment of 75% of the tax assessed and benefit from the waiver of additional penalty and interest as provided by Section 39-22-522.5(11), C.R.S. The Department's processing of a payment submitted with such form shall constitute the Department's agreement that the amount remitted is acceptable to waive all additional penalty and interest accruals while the case is in the administrative hearing process.

TMRs who appeal a Notice of Final Determination and Demand for Payment shall be required to deposit any additional amounts of the disputed deficiency not covered by the partial payment, or post a surety bond in twice the amount of the unpaid balance, as required by Section 39-21-105(4), C.R.S.

Taxpayers Who Settle Their Dispute

For TMRs who have filed and transferees for whom a TMR has filed a timely request for hearing/protest or written brief in lieu of hearing, and have not previously settled or withdrawn such protest, in accordance with Section 39-22-522.5(1)(i), C.R.S., the Department may agree to waive penalty and interest for taxpayers who have acted in good faith to resolve their dispute. The specific facts and circumstances for each case should be considered in all settlement negotiations.