CHAPTER 57-23
PROCEEDINGS TO ABATE OR REFUND TAXES

57-23-01. Correcting excessive assessment.

All assessments of any taxable property in excess of the full and true value in money are subject to correction and abatement and refund under the provisions of this chapter.

57-23-02. Notice of equalization meetings to be published.

Repealed by S.L. 2013, ch. 443, § 41.

57-23-03. Abatement of invalid, inequitable, or unjust assessments.

Repealed by S.L. 1985, ch. 604, § 22.

57-23-04. County commissioners may abate or refund taxes.

1. Upon application filed in the office of the county auditor on or before November first of the year following the year in which the tax becomes delinquent, as in this chapter provided, the board of county commissioners may abate or refund, in whole or in part, any assessment or tax upon real property, in the following cases:
   a. When an error has been made in any identifying entry or description of the property, in entering the valuation thereof, or in the extension of the tax, to the injury of the complainant.
   b. When improvements on any real property were considered or included in the valuation thereof which did not exist thereon at the time fixed by law for making the assessment.
   c. When the complainant, or the property, is exempt from the tax.
   d. When the complainant had no taxable interest in the property assessed against the complainant at the time fixed by law for making the assessment.
   e. When taxes have been erroneously paid, or errors made in noting payment, or in issuing receipts therefor.
   f. When the same property has been assessed against the complainant more than once in the same year, and the complainant produces satisfactory evidence that the tax thereon for such year has been paid.
   g. When any building, mobile home, structure, or other improvement has been destroyed or damaged by fire, flood, tornado, or other natural disaster, the abatement or refund must be granted only for that part of the year remaining after the property was damaged or destroyed.
   h. When the assessment on the complainant's property is invalid, inequitable, or unjust.
2. An application for refund of taxes paid with respect to any part of an assessment abated under this section must be granted, regardless of whether or not such taxes were paid under protest, oral or written.
3. Any person aggrieved by any decision of the board of county commissioners may appeal in the manner provided by law.

57-23-05. Application for abatement or refund - Who may make.

An application for an abatement or refund must be in writing and must be filed in duplicate with the county auditor. It must state the grounds relied upon for such abatement or refund and give the post-office address of the applicant. The county auditor shall note the date of filing, shall file the same, and, within five business days of the filing date, shall present a copy to the city auditor or the township clerk if the applicant's assessed property is within a city or an organized township. The county auditor shall present the application to the board of county commissioners at its next regular meeting. The county auditor shall give the applicant notice by mail of the time and place of hearing on any abatement or refund not less than ten days prior to such hearing.

Any person having any estate, right, title, or interest in or lien upon any real property who claims that the assessment made or the tax levied against the same is excessive or illegal, in whole or in part, is entitled to make an application for abatement, refund, or compromise, as the case may be, and have such application granted if the facts upon which the application is based bring it within the provisions of this chapter for abatement, refund, or compromise. In addition, if an abatement is based upon any of the grounds specified in section 57-23-04 and if the application for abatement will not result in a refund of tax or a compromise of a tax, the abatement application may be signed and submitted by either the county auditor or the assessor who made the assessment resulting in the tax specified in the abatement application.

57-23-05.1. Appraisal of property - Premises open to inspection.

The applicant, by filing an application for an abatement, refund, or compromise of a tax with the county auditor, consents to inspection of the premises involved in the application by the board of county commissioners, the governing body of the city or township, or the state tax commissioner or the duly authorized agents thereof for the purpose of making an appraisal of said property. The premises must be open to inspection to the person having authorization to make the appraisal upon giving reasonable notice to the applicant.

57-23-06. Hearing on application.

1. Within ten days after receiving an application for abatement, the city auditor or the township clerk shall give the applicant a notice of a hearing to be held before the governing body of the city or township, or such other committee as it may designate, in which the assessed property is located. Said hearing must be set for no more than sixty days after the date of the notice of hearing, and in any event, must be held before the recommendations provided for in subsection 2 are made. The applicant may waive, in writing, the hearing before such governing body or designated committee at any time before the hearing. Any recommendations provided for in subsection 2 must be transmitted to the county auditor no more than thirty days after the date set for the hearing. The provisions of this subsection do not apply to applications for abatement pursuant to section 57-02-08.2.
2. At the next regular meeting of the board of county commissioners following the filing of an application for abatement or, if forthcoming, at the next regular meeting of the board of county commissioners following transmittal of the recommendations of the governing body of the municipality, the applicant may appear, in person or by a representative or attorney, and may present such evidence as may bear on the application. The applicant shall furnish any additional information or evidence requested by the board of county commissioners. The recommendations of the governing body of the municipality in which such assessed property is located must be endorsed upon or attached to every application for an abatement or refund, and the board of county commissioners shall give consideration to such recommendations. The board of county commissioners, by a majority vote, either shall approve or reject the application, in whole or in part. If rejected, in whole or in part, a written explanation of the rationale for the decision, signed by the chairman of the board, must be attached to the application, and a copy thereof must be mailed by the county auditor to the applicant at the post-office address specified in the application.
3. At a hearing before the board of county commissioners on an application for abatement, the applicant or the applicant's representative or attorney is limited to the relief claimed in the application for abatement submitted to the board of county commissioners. The applicant or applicant's representative or attorney may not submit evidence during a hearing on an application for abatement suggesting a lower valuation, a lower tax levy, or a different taxable status than was requested in the application for abatement submitted to the board of county commissioners.

57-23-07. County commissioners may compromise tax.

If tax on any real estate remains unpaid after the second Tuesday in December in the year it is due, the board of county commissioners, subject to the approval of the state tax commissioner, by reason of depreciation in the value of the property or for other valid cause, may compromise with the owner of the property by abating a portion of the delinquent taxes, with any penalty and interest on that portion, on payment of the remainder. The county commissioners may not compromise the tax after the county auditor has issued a tax deed to the county.

57-23-08. Duties of county auditor and county commissioners after abatement action.

After the granting of any application for abatement or refund or compromise of any tax, the county auditor shall correct all tax lists in accordance with the order of abatement or compromise, and the applicant is relieved of further liability for the tax abated or compromised and any penalties and interest on the abated or compromised portion of the tax. If the board of county commissioners disapproves any application for abatement or refund or compromise, in whole or in part, the reasons for disapproval must be stated thereon, and the applicant may appeal the rejection of the application for abatement or refund or compromise as provided by law.

57-23-09. Procedure when refund is made.

When any application for refund is granted, the county auditor shall issue and deliver to the applicant a warrant drawn on the county treasurer for the amount ordered refunded, and the county treasurer shall refund the same, and shall write opposite such tax in the treasurer's list the word "refund", with the date and the number of the warrant. The amount so refunded must be charged to the state, county, city, township, school district, park district, or any other taxing district, which may have received any part of such money, in proportion to the levies for the year for which the tax was extended. The refund must include any penalties and interest previously paid on the portion of any tax abated or compromised.

57-23-10. Appeal.

Repealed by S.L. 1971, ch. 552, § 2.

57-23-11. Provisions of chapter retroactive.

Repealed by S.L. 1973, ch. 459, § 7.

57-23-12. Limitations of chapter.

The right to proceed to recover taxes paid under protest, as provided by law, is not qualified or limited by this chapter.