

Board of County Commissioners - Staff Report

Meeting Date: April 30, 2024
Submitting Dept: Attorney

Presenter: Abigail S. Moore
Subject: Amendments to Title 11 - Teton County Property Tax Refund Rules

Statement / Purpose: Approval to begin the 45-day public comment period on amendments to Title 11 – Teton County Property Tax Refund Rules, pursuant to the Wyoming Administrative Procedures Act (Wyo. Stat. §16-6-101, *et. seq.*) due to changes to the program enacted by the Wyoming Legislature in 2024 through amendments to Wyo. Stat. §39-13-109(c).

Background / Description: In 2023, Teton County adopted Title 11 - rules for a new county optional property tax refund program authorized by the Wyoming Legislature in 2022. The legislature provided certain mandatory parameters and criteria that taxpayers must satisfy to qualify for a refund of timely paid property taxes timely for the previous calendar year but some flexibility allows a county to tailor the program to the needs of their community. The legislation requires that each county offering a local tax refund program adopt program rules and regulations.

In March 2024, the Wyoming Legislature adopted amendments to the tax refund programs – the state's program as well as locally adopted county programs (HB0004/House Enrolled Act No. 52). Changes were made to the financial eligibility criteria and income tiers were added with different refund amounts. The application deadline for local county programs was also moved back. Governor Gordon exercised his line item veto authority to remove one of the new income tiers added by the legislature. The proposed amendments, illustrated in the attached redline, align Teton County's local rules with the statutory changes. A few additional changes to the text merely clarify language or adjust deadlines to be more workable; they do not alter any provisions substantively.

The changes to W.S. §39-13-109(c) and the tax refund program are:

- The income limit to qualify for the refund program was raised. To obtain a refund of the previous year's property taxes, gross income of the household cannot exceed 145% of Median Household Income of Teton County for that calendar year. It was previously 125% of Median Household Income. The Median Household Income for every county is determined each year by the state. For 2023, 145% of the Median Household Income of Teton County is \$178,959 (2023 Median Household Income is \$123,420) . This change is reflected in the amendment to 11-3-1(d)(i) of Title 11.
- For applicants who qualify, the legislature added refund tiers based on gross household income. Applicants whose gross household income was at or less than 125% of the County's Median Household Income (\$154,275 in 2023), may obtain up to 100% of the maximum tax refund established by the BCC each year. The BCC cannot authorize refunds in excess of 75% of the tax paid. Applicants whose gross household income was at or less than 145% of the County's Median Household Income (\$178,959 in 2023) may only obtain up to 65% of the maximum tax refund. These changes apply to both the state tax refund program and local county tax refund programs. This change is not directly reflected in any amendment to the local rules but will impact the amount of the refund each qualified applicant is eligible to receive under W.S. §39-13-109(c)(vi)(E) and 11-6-1(f)(v) of Title 11.



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- The legislature also changed the application deadline for county programs from the first Monday in September to the second Monday in October. This change is reflected in the amendment 11-4-1(a) of Title 11. The application for the state program continues to be the first Monday in June.

There were no additional legislative changes and the other statutory criteria to qualify for a tax refund and various other limitations that impact the calculation of each refund remain the same, which are as follows:

Other Eligibility Criteria

- Wyoming Resident for at least 5 years.
- Must occupy home for 9 months of the year.
- Must have "timely paid" the property tax. This is a refund program, so the taxes must have been paid and paid on time.
- All household assets must be less than \$150,000* per each adult in the household (*this figure is adjusted annually by the state and it is \$156,900 for 2023). There are also exceptions – assets that are not included in the calculation, such as the house itself, one vehicle, furnishings, pensions, IRA accounts, life insurance cash values, medical savings accounts. This asset limitation to qualify for the refund programs does not apply if the property tax liability was more than 10% of the gross household income.

Limitations on Refunds

- A qualified taxpayer's refund is a percentage of total taxes paid, not to exceed 75%, as determined by the BCC each November - after all the applications have been received in October (that percentage will essentially be a function of the amount appropriated by BCC in July and the number of qualified applications received). With the new refund tiers, those at 125% or below of Median Household Income may receive 100% of the tax refund percentage established by the BCC and those at 145% or below of Median Household Income can only receive a refund of 65% of that BBC determined percentage.
- A qualified taxpayer's refund also cannot exceed $\frac{1}{2}$ of the annual median residential tax property tax liability for Teton County as determined by the state. In 2023, this figure is \$5,562.40 (Median Property Tax in 2023 was \$11,124.80).
- A qualified taxpayer's refund also cannot exceed the total tax paid when combined with any state refund. Applications for the state tax refund program continue to be due by the first Monday in June and those refunds are issued by the state no later than September 30th (the local county tax refund applications are not due until mid-October and refunds are distributed in December).



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Application and Other Key Deadlines for Local Tax Refund Program:

- **By 2nd Monday in October** - A taxpayer must file a refund application by this statutory deadline. See amendment to 11-6-1(a) of Title 11.
- **By July 1st** - Budget Adoption when BCC will appropriate funds for the program.
- **By 1st Monday in November** - BCC determination of maximum percentage of prior year's taxes eligible for refund (not to exceed 75%). This is a new deadline proposed in the amendment to 11-6-1(e) of Title 11 to accommodate the new deadline for local applications of the 2nd Monday in October.
- **By December 15th** - List of qualified applicants and refund amount for each submitted by the County Treasurer to the County Clerk
- **By December 30th** - Refunds issued by County Clerk to qualified taxpayers

Stakeholder Analysis & Involvement: Teton County property taxpayers that qualify under the criteria.

Fiscal Impact: There is no direct fiscal impact for these amendments to Title 11 - the Teton County Property Tax Refund Program rules. All funding for the local property tax refund program, however, comes solely from the County. The fiscal impact each year will depend upon how much the BCC appropriates for the program. Each year the County may elect to appropriate money for the program or not - at the discretion of the BCC. In 2023, the first year of the local tax refund program, the BCC appropriated \$1 million for potential refunds for 2022 property taxes to be paid out to qualified applicants.

Staff Impact: This program will continue to require major resources of the County Treasurer's Office to take in, process, and evaluate the applications with the required supporting documents and attachments and determine if each applicant qualifies. The Treasurer will then prepare a report of the total property tax paid by qualified applicants and the total of eligible refund amounts in order for the BCC to determine, by the first Monday in November, the percentage (up to 75%) of those taxes eligible for refunds. The Treasurer must also ensure that no refund exceeds ½ of the annual median residential tax property tax liability for Teton County – as calculated by the state. The Treasurer must also ensure that the local refund issued to each applicant, when combined with any state refund the taxpayer may have received, does not exceed the total tax paid. With the new tiered system, the Treasurer must also calculate the refund amount for those in the 125% bracket and 145% bracket. The Treasurer then provides the County Clerk with the final list of qualified applicants and the amount of each refund. The County Clerk will issue refunds to the taxpayers.

Legal Review: A. Moore

Staff Input / Recommendation: Staff recommends the BCC authorize the Clerk to advertise, provide notice for 45 days and solicit public comment on the proposed amendments to Title 11 - *Teton County Property Tax Refund Program Rules*.

Attachments:

Redline of proposed amendments to Title 11 - *Teton County Property Tax Refund Program Rules*
Changes accepted of proposed amendments to Title 11 - *Teton County Property Tax Refund Program Rules*

Suggested Motion:

I move to authorize the Teton County Clerk to advertise, provide notice, and begin a 45-day public comment period for the potential adoption of the proposed amendments to Title 11, the *Teton County Property Tax Refund Program Rules*.

TITLE 11

TETON COUNTY PROPERTY TAX REFUND PROGRAM

APPROVED AND ADOPTED ON JULY 11, 2023

BY THE TETON COUNTY BOARD OF COUNTY COMMISSIONERS

Effective Amended - as of June 25, 2024 **July 12, 2023**

CHAPTER 1 – AUTHORITY AND PURPOSE

11-1-1 AUTHORITY

- a. The Teton County Commissioners adopt these rules included in Title 11 - Teton County Property Tax Refund Program pursuant to W.S. 39-13-109(c)(vi) which authorizes board of county commissioners to implement a county-optional property tax refund program subject to the adoption of rules as required by W.S. 39-13-109(c)(vi)(H).

11-1-2 PURPOSE

- a. These rules, required by W.S. 39-13-109(c)(vi)(H), are intended to supplement W.S. 39-13-109(c)(vi) by implementing necessary standards for establishing income, asset, and refund limits and the necessary procedures to assist in the administration of the Teton County Property Tax Refund Program as authorized under the statute.

11-1-3 EFFECTIVE DATE

- a. These amended rules and regulations shall become effective on July 12, 2023 June 25, 2024.

11-1-3 APPROPRIATIONS

- a. The Teton County Property Tax Refund Program shall be limited by the annual appropriations made available for the program for a calendar year, if any, as determined by the Teton County Board of County Commissioners.
- b. For each calendar year the Board of County Commissioners elect to authorize appropriations for the Teton County Property Tax Refund Program, the availability of funds shall be publicized in a manner reasonably designed to notify all residents of the county of such, as well as the method by which eligible persons may obtain a refund.

CHAPTER 2 – DEFINITIONS

11-2-3 DEFINITIONS

Definitions for purposes of this Title 11 for the Teton County Property Tax Refund Program, are:

- a. "Adult" means a person whose age is eighteen (18) years or more.
- b. "Applicant" means an individual applying for refund under W.S. 39-13-109(c)(vi), stating ownership and occupancy as to his or her principal residence.
- c. "Calendar year" means the calendar year in which the property tax is billed. Thus it refers to the tax payments which become due on September 1st of the calendar year in which they are billed and on March 1st of the following year.
- d. "Federal income tax return" means any income tax return filed with the Internal Revenue Service by an individual.
- e. "Form" means an application approved by Teton County.
- f. "Gross income" means all taxable and nontaxable income received by all adult members of the household from all sources.
- g. "Household furnishings and personal property" shall be construed to mean all tangible personal property except personal motor vehicles. It shall not include any intangible personal property as defined in W.S. 39-11-101(a)(vii).
- h. "Household assets" means real property, as defined by W.S. 39-11-101(a)(xv), and intangible and tangible personal property, as defined in W.S. 39-11-101(a)(vii) and (xvi), belonging to the members of the household.
- i. "Members of the household" means all adults whether related by blood or marriage, who reside within the same residence.
- j. "Occupied" means a person lived or dwelled in the primary residence on the property.
- k. "Personal motor vehicle" means any vehicle that can be used for personal transportation, including, but not limited to automobiles, light trucks, vans, motorcycles, snowmobiles, all-terrain vehicles, and motor homes. It shall not include trucks with more than two axles, used primarily for commercial transportation of goods.
- l. "Principal residence" is the primary residence or domicile, the address of which may be reflected on a driver's license, federal income tax return, and/or voter registration. Portions of said residence used for business purposes are not considered part of the

principal residence; property taxes deducted as expenses of the business conducted in the residence shall be excluded from consideration for relief under this program.

- m. "Refund" means a repayment by the County of property taxes timely paid, which is no later than the first Monday in June, by the applicant for the preceding year on an applicant's principal residence plus land in amount determined by the County pursuant to W.S. 39-13-109(c)(vi) and these rules.
- n. "Resident" means a person who physically lives in Wyoming for more than one-half (1/2) of the year; however, no person shall be deemed to have lost residency by reason of absence on business of the United States, or of the state, or in the military or naval service of the United States. A qualifying resident must satisfy the residency requirement for each of the five (5) years preceding the year of the application for refund under this program.
- o. "Taxable and nontaxable income" means all income of all adult members of the household including, but not limited to:
 - (i) Wages;
 - (ii) Net self-employment income;
 - (iii) Unemployment compensation;
 - (iv) Worker's compensation;
 - (v) Lease payments;
 - (vi) Net rental income;
 - (vii) All interest earnings;
 - (viii) Social security income;
 - (ix) All retirement plans; and
 - (x) Alimony

CHAPTER 3 – QUALIFICATION APPLICATION

11-3-1 QUALIFICATION FOR ELIGIBILITY

- a. An applicant must have been a resident, as defined above, of the state of Wyoming for a period of not less than five (5) years prior to the year in which he/she applies for a refund under W.S. 39-13-109(c)(vi). For purposes of this provision, the five-year period must be continuous. When a joint application is filed because the property is jointly owned, at least one of the joint owners must satisfy this residency requirement.
- b. The applicant must attest that the property for which the applicant applies for a refund under this program was occupied for more than nine (9) months of the applicable calendar year pursuant to 39-13-109(c)(vi)(B).
- c. An applicant must have timely paid, no later than the first Monday in June, the property tax with any applicable interest and penalties, for the preceding calendar year upon the individual's principal residence, including the land on which the residence is located, by the application deadline.
- d. To qualify and be eligible for a refund, An applicant must satisfy the following current financial requirements to be eligible for a refund under the provision of W.S. 39-13-109(c)(vi), attached hereto as Exhibit A. The financial requirements to qualify for a refund under W.S. 39-13-109(c)(vi), as amended in 2024, are :
 - i. Total household income, defined as "gross income" in Chapter 2, above, shall not exceed one hundred twentyforty-five percent (1245%) of the median gross household income for the applicant's county of residence, as determined annually by the Economic Analysis Division of the Department of Administration and Information (for example, this figure is \$178,959 for calendar year 2023) and;
 - ii. The value of total household assets, excluding the items listed below, shall not have a value in excess of one-hundred fifty thousand dollars (\$150,000.00) per adult member of the household as adjusted annually by the stated average cost-of-living index published by the Economic Analysis Division of the Department of Administration and Information (for example, this figure is \$156,900 for calendar year 2023). This provision is not applicable if the applicant's property tax liability is greater than ten percent (10%) of the applicant's household income
 - iii. Items excluded from household assets are as follows:
 - A. The value of the home subject to the property tax refund application;
 - B. One (1) personal motor vehicle per adult in the household;
 - C. Household furnishings and personal property;
 - D. Assets held under a bona fide pension plan or individual retirement account;
 - E. The cash value of any life insurance policies held; and
 - F. Assets held in a medical savings account.

CHAPTER 4 – APPLICATION PROCEDURES

11-4-1 APPLICATION PROCEDURES AND REQUIREMENTS

- a. An application, submitted under oath, on the forms and an affidavit, approved by the County for the applicable calendar year, must be completed and returned to the County Treasurer on or before the first~~second~~ Monday in September~~October~~. Any applications submitted after this closing date will be denied.
- b. A new application, submitted under oath, on the forms and an affidavit approved by the County, must be submitted for each calendar year funding is available for the program.
- c. Applications must be fully documented each year. Copies of documents attached to the application are part of the application and will not be returned to the applicant.
- d. A timely submitted application may be disqualified for cause. An application which appears to qualify may be disqualified, for example, if all the required documentation is not attached or the application is not sworn before a notary.
- e. If an applicant dies after applying, and before the refund payment is made, the refund shall be paid to the decedent's estate.

CHAPTER 6 – ADMINISTRATIVE PROCEDURES

11-6-1 ADMINISTRATIVE PROCEDURES

- a. The County Treasurer shall prepare and issue application forms for refunds under W.S. 39-13-109(c)(vi) on or before April 15th of each year following publication of the economic data produced annually by the Economic Analysis Division of the Wyoming Department of Administration and Information that is necessary to establish the financial eligibility, qualifications, allowable refunds, and other criteria of the program.
- b. The County shall follow Wyoming Department of Revenue computations ~~the for any cost-of-living adjusted limit to the value of non- exempt household assets. The County shall also maintain information regarding this adjustment for all years of the program.~~
- c. Annually, the County shall obtain the data from the Economic Analysis Division of the Department of Administration and Information regarding the statewide average cost-of-living index and median household income for the county.
- d. Annually, the County shall obtain the data from the Department of Revenue regarding the median residential property tax value in the county.
- e. Annually, no later than the first Monday in November~~October~~1, the County Commissioners shall determine the percentage of the applicant's prior year's property tax that is eligible for refund, subject to the limitations stipulated in W.S. 39-13-109(c)(vi)(E).
- f. The County shall review all applications for refunds which have been filed in a timely manner, as specified in Chapter 4, above. Applications which are not filed by the due date shall be denied. The review must address the following issues:
 - i. Whether the application is filed timely;
 - ii. Whether the application is complete, i.e., whether all required entries, including the signature of the applicant, and all required supporting documentation are present. The application form shall specify what entries and supporting documentation must be present for the application to be deemed complete;
 - iii. Whether the applicant satisfies the income limitation;
 - iv. Whether the applicant satisfies the household asset value limitations in W.S. 39-13-109(c)(vi)(D).
 - v. The amount of the refund due the applicant in accordance with W.S. 39-13-109(c)(vi)(E).

g. The County Treasurer shall prepare a list of qualifying applicants, together with the amounts of the refunds, and submit the report to the County Clerk's office no later than December 15th of each year for preparation of payments due. All refunds will be issued on or before December 30th.

