

1 SB549
2 141396-1
3 By Senator Brooks
4 RFD: Judiciary
5 First Read: 19-APR-12

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8 SYNOPSIS: Under existing law, the Alabama Taxpayers'
9 Bill of Rights and Uniform Revenue Procedures Act
10 governs the administrative procedures of the
11 Department of Revenue and local governments
12 relating to taxpayer's rights and responsibilities,
13 refunds, penalties, assessments, and appeals.

14 This bill would amend the act to conform in
15 several respects to the federal Taxpayer's Bill of
16 Rights, including broader "innocent spouse" type
17 relief, and make technical corrections to remove
18 ambiguities and conflicts. This bill would require
19 certain state tax income returns to be filed as a
20 result of IRS audit changes, consistent with the
21 Multistate Tax Commission's model statute, and
22 increase a taxpayer's penalties for fraud,
23 negligence, and frivolous appeals or returns,
24 consistent with federal law. This bill would
25 increase the time period in which a taxpayer has to
26 file an appeal of a preliminary or final
27 assessment. This bill would establish a new

1 procedure for seeking an expedited revenue ruling
2 from the department.

3 This bill would specifically state that it
4 is the intent of this bill to adopt in large part
5 the American Bar Association Model State
6 Administrative Tax Tribunal Act.

7 This bill would abolish the Administrative
8 Law Division of the Department of Revenue, and
9 provide for the creation and operation of a new,
10 independent state agency, known as the Alabama Tax
11 Appeals Commission, to hear appeals of tax and
12 other matters administered by the Department of
13 Revenue, and appeals related to certain local taxes
14 levied by or on behalf of self-administered
15 counties or municipalities, unless the governing
16 body elects-out. The bill would transfer office
17 furniture, equipment, computers and other property
18 from the Department of Revenue to the Tax Appeals
19 Commission, and also transfer from the Revenue
20 Department Administrative Fund and from the State
21 General Fund the necessary funds for the first year
22 of operation of the Tax Appeals Commission.

23 This bill would also amend portions of
24 Chapters 2A and 18 of Title 40, Code of Alabama
25 1975, for purposes of conformity and to make
26 technical corrections.

1 Section 1. In order to increase public confidence in
2 the fairness of Alabama's tax system, the state shall provide
3 an independent agency, with tax expertise, to resolve disputes
4 between the Department of Revenue, or certain
5 self-administered counties and municipalities, and taxpayers,
6 prior to requiring the payment of the amounts in issue or the
7 posting of a bond, but after the taxpayer has had a full
8 opportunity to attempt settlement with the Department of
9 Revenue or with a self-administered county or municipality
10 that has not elected-out based, among other issues, on the
11 hazards of litigation. By establishing an independent tax
12 tribunal within the executive branch of government, this act
13 shall provide taxpayers with a means of resolving
14 controversies that ensures both the appearance and the reality
15 of due process and fundamental fairness. To that end, Chapter
16 2B of Title 40 of the Code of Alabama 1975, by this act shall
17 be known and may be cited as the Alabama Tax Appeals
18 Commission Act.

19 It is the intent of the Legislature to adopt in
20 large part the American Bar Association Model State
21 Administrative Tax Tribunal Act.

22 It is the intent of the Legislature that this act
23 foster the settlement or other resolution of tax disputes to
24 the greatest extent possible and, in cases in which litigation
25 is necessary, to provide taxpayers with a fair, independent,
26 pre-payment procedure to resolve a dispute with the Department

1 of Revenue or, in certain cases, a self-administered county or
2 municipality.

3 It is also the intent of the Legislature to amend
4 the existing Alabama Taxpayers' Bill of Rights provisions,
5 which apply to both the Department of Revenue and
6 self-administered counties and municipalities as a result of
7 the Local Tax Procedures Act of 1998, to conform more closely
8 to current federal law and to provide additional safeguards to
9 taxpayers during the audit and appeals process. To that end,
10 the provisions of this act and existing Chapter 2A of Title 40
11 of the Code of Alabama 1975, shall be known and may be cited
12 as the Alabama Taxpayers' Bill of Rights II.

13 Section 2. Chapter 2B is added to Title 40 of the
14 Code of Alabama 1975, to read as follows:

15 CHAPTER 2B

16 CREATION AND OPERATION OF THE ALABAMA TAX APPEALS
17 COMMISSION

18 §40-2B-1. Alabama Tax Appeals Commission.

19 (a) As part of the executive branch of state
20 government, there is hereby created an independent commission
21 to be known as the Alabama Tax Appeals Commission, also
22 referred to herein as the "Tax Appeals Commission."

23 (b) The Tax Appeals Commission shall become fully
24 operational on October 1, 2012. The Tax Appeals Commission, in
25 cases within its jurisdiction:

26 (1) Is a commission of limited and special
27 jurisdiction.

1 (2) Possesses the same powers and may exercise all
2 ordinary and extraordinary legal and equitable remedies
3 available in the circuit courts with respect to tax cases, as
4 prescribed herein, including the interpretation and
5 application of constitutional principles, and such additional
6 remedies as may be assigned to it by the Legislature, but may
7 not declare a statute or ordinance in violation of either a
8 federal or state constitutional provision.

9 (c) The Tax Appeals Commission shall have a seal
10 engraved with the words Alabama Tax Appeals Commission. The
11 Tax Appeals Commission shall authenticate all of its orders,
12 records, correspondence, and proceedings with the seal, and
13 the courts of this state shall take judicial notice of the
14 seal.

15 §40-2B-2. Definitions.

16 (a) The definitions provided for in Section 40-2A-3
17 shall also apply to this chapter, except as provided in this
18 section. For purposes of this chapter, the following terms
19 shall have the following meanings:

20 (1) The term "Department of Revenue" means the
21 Alabama Department of Revenue, and does not include the
22 governing body of any self-administered county or
23 municipality.

24 (2) The term "U.S. mail with delivery confirmation"
25 means a delivery service available through the U.S. Postal
26 Service that provides the sender with the date, zip code, and

1 time the article was delivered or the time delivery was
2 attempted.

3 (b) For purposes of this chapter, if a
4 self-administered county or municipality has not elected out
5 of this chapter pursuant to Section 40-2B-25, the following
6 terms shall have the following meanings:

7 (1) The term "taxpayer" shall include a person, as
8 defined in Section 40-2A-3, when paying a sales, use, rental,
9 or lodgings tax to, or being assessed or examined by, a
10 self-administered county or municipality or its agent.

11 (2) The term "department" shall include the
12 governing body of each self-administered county or
13 municipality that has not elected out.

14 (3) The term "secretary" shall include the clerk of
15 the applicable self-administered county or municipality that
16 has not elected out.

17 (4) The term "tax" shall mean and refer to a sales,
18 use, rental, or lodgings tax levied by or on behalf of a
19 self-administered county or municipality that has not elected
20 out.

21 §40-2B-3. Jurisdiction and initial organization of
22 the Tax Appeals Commission.

23 (a) The Tax Appeals Commission shall have
24 jurisdiction to hear and determine all appeals pending before
25 the Department of Revenue's Administrative Law Division on
26 September 30, 2012, and all subsequent appeals filed with the
27 Tax Appeals Commission pursuant to Chapters 2A and 29 of this

1 title, Chapters 6, 7A, 13, and 20 of Title 32, relating to
2 motor vehicles, or Section 40-2B-25, relating to
3 self-administered counties and municipalities, except as
4 follows:

5 (1) Appeals filed directly with the circuit court
6 either from a final assessment entered by the department, or
7 from the department's denial in whole or in part of a claim
8 for refund.

9 (2) The determination and assessment of ad valorem
10 taxes on real and personal property, which is administered by
11 the various counties of the State of Alabama, except that
12 appeals from final assessments of value of property of public
13 utilities under Chapter 21 may be heard by the Tax Appeals
14 Commission in accordance with the procedures set forth in this
15 chapter.

16 (3) Any appeals regarding a sales, use, rental, or
17 lodgings tax levied or collected by or on behalf of a
18 self-administered county or municipality if the governing body
19 of the county or municipality has made an election under
20 Section 40-2B-25 to divest the Tax Appeals Commission of
21 jurisdiction over the dispute, challenge, or appeal. Such
22 appeals shall be heard by the employee or other agent of the
23 self-administered county or municipality serving in the
24 capacity of a hearings or appeals officer, subject to Section
25 40-2A-6.

26 (b) To provide for a proper transition from the
27 Administrative Law Division to the Tax Appeals Commission, the

1 Department of Revenue, on or before October 1, 2012, shall
2 transfer to the Tax Appeals Commission office furniture,
3 equipment, computers, and other tangible personal property
4 used by the Administrative Law Division, as well as all case
5 files, docket books, and all other documents and information,
6 in both tangible and intangible form, compiled, used, or
7 maintained by the Administrative Law Division. Further, any
8 appeals that are timely filed with the Administrative Law
9 Division after September 30, 2012, shall be deemed timely
10 filed with and transferred to the Tax Appeals Commission. The
11 Chief Administrative Law Judge of the Administrative Law
12 Division shall have and is hereby granted the power and
13 authority necessary to effect an orderly transition,
14 including, but not limited to, the power and authority to
15 execute binding contracts and commitments on behalf of the Tax
16 Appeals Commission with respect to employees, office space,
17 equipment, and other property, consistent with Sections
18 40-2B-16 and 40-2B-20.

19 §40-2B-4. Service of papers and process.

20 Except concerning notices to the Department of
21 Revenue from the Tax Appeals Commission, or as otherwise
22 provided in this chapter, the Tax Appeals Commission shall
23 mail any final order in which a judgment is entered or
24 affirmed or any notice of hearing by either U.S. mail with
25 delivery confirmation or certified U.S. mail, return receipt
26 requested, to the taxpayer's last known address, or if the
27 taxpayer has an authorized representative, to the authorized

1 representative's last known address. All other orders or
2 documents may, at the Tax Appeals Commission's discretion, be
3 mailed by first class U.S. mail.

4 §40-2B-5. Timely mailed document considered to be
5 timely filed.

6 Any notice of appeal, application for rehearing, or
7 other document required by law to be timely filed with the Tax
8 Appeals Commission shall be deemed timely filed if:

9 (1) Timely mailed or delivered in accordance with
10 Section 40-1-45 and Department of Revenue regulations
11 pertinent thereto;

12 (2) Received by the Tax Appeals Commission on or
13 before the date due; or

14 (3) Received by the Tax Appeals Commission in
15 legible form by facsimile or electronic transmission on or
16 before the due date, if the original, signed document is
17 mailed or delivered to the Tax Appeals Commission within seven
18 days after receipt of the facsimile or electronic
19 transmission.

20 §40-2B-6. Issuance of subpoenas; administration of
21 oaths.

22 (a) A judge of the Tax Appeals Commission shall have
23 the authority and the discretion to issue subpoenas, on his or
24 her own motion or at the request of a party, requiring any
25 person whose testimony may be relevant to an appeal to appear
26 and give testimony, either at a deposition or a hearing before
27 the judge. If a person is subpoenaed to testify at a

1 deposition or a hearing at the request of a party, that party
2 shall bear the cost of transcription of the deposition and the
3 fees and mileage provided in Section 40-2A-7(a)(4). The judge
4 shall also have discretion to issue subpoenas duces tecum
5 requiring the production of any document or other evidence
6 relevant to the appeal. Such subpoenas or subpoenas duces
7 tecum shall be issued in the name of the Tax Appeals
8 Commission, signed by a judge of the Tax Appeals Commission,
9 and may be served either in the same manner as subpoenas
10 issued by a circuit court, or by either U.S. mail with
11 delivery confirmation or certified U.S. mail, return receipt
12 requested. If any person has been subpoenaed to appear and
13 testify or appear and produce documents or other information,
14 and fails or refuses to appear or testify or to produce such
15 documents or other information, such person shall be subject
16 to contempt proceedings, if instituted by a petition for
17 contempt issued by a judge of the Tax Appeals Commission, in
18 the circuit court of the judicial circuit in which such person
19 resides, and upon proof of such fact to the circuit court, may
20 be punished for contempt as is provided in cases of contempt
21 in circuit court. Such proof of contempt may be evidenced by
22 an affidavit of a judge of the Tax Appeals Commission.
23 Likewise, such circuit court shall have jurisdiction to hear,
24 and if appropriate, to grant a motion to quash such subpoena.
25 (b) Any judge, or any employee of the Tax Appeals
26 Commission as designated in writing by the chief judge, may
27 administer oaths.

1 §40-2B-7. Hearings to be without a jury and de novo.

2 All appeals to the Tax Appeals Commission shall be
3 tried without a jury and shall be de novo.

4 §40-2B-8. Notice to taxpayer of right to appeal to
5 Tax Appeals Commission.

6 The department shall notify a taxpayer of the right
7 to appeal to the Tax Appeals Commission, and the
8 jurisdictional requirements for perfecting the appeal. Such
9 notice shall be given with a final assessment, or with any
10 notice by the department informing the taxpayer that his or
11 her claim for refund has been denied in whole or in part, or
12 any notice by the department informing the taxpayer of any
13 act, proposed act, or refusal to act by the department from
14 which the taxpayer has a right to appeal to the Tax Appeals
15 Commission.

16 §40-2B-9. Procedures concerning appeals.

17 (a) The purpose of this section is to establish
18 uniform procedures concerning appeals to the Tax Appeals
19 Commission and to establish the authority and responsibilities
20 of the judges of the Tax Appeals Commission concerning those
21 appeals. This section shall be liberally construed to provide
22 for the fair, efficient, and complete resolution of all
23 matters in dispute.

24 (b) Judges of the Tax Appeals Commission shall hear
25 and decide all appeals to the Tax Appeals Commission, as
26 assigned by the chief judge. A judge, without a hearing, may
27 dismiss any appeal, or grant appropriate relief to any party,

1 if a party fails or refuses to comply with any Tax Appeals
2 Commission regulation or statute concerning appeals before the
3 Tax Appeals Commission, or if any party fails or refuses to
4 comply with any preliminary order issued by a judge. The
5 judge, for good cause, may reinstate an appeal dismissed under
6 this subsection or withdraw an order granting relief, but only
7 if an application to reinstate the appeal or withdraw the
8 order is filed within 15 days from the date on which the order
9 dismissing the appeal or granting the relief was entered, or
10 on the judge's own motion within 90 days. A final order
11 dismissing an appeal or granting relief to a party may be
12 appealed to circuit court in the same manner and subject to
13 the same requirements as appeals from final or other
14 appealable orders of the Tax Appeals Commission.

15 (c) The notice of appeal filed with the Tax Appeals
16 Commission shall identify the final assessment, denied refund,
17 or other act or refusal to act by the department which is the
18 subject of the appeal, the position of the appealing party,
19 the basis on which relief should be granted, and the relief
20 sought. A notice of appeal that does not include all of the
21 above information shall be sufficient to invoke the
22 jurisdiction of the Tax Appeals Commission. The judge may
23 require a taxpayer to file an amended notice of appeal if more
24 information is deemed necessary.

25 (d) (1) Except as provided in subdivision (2), the
26 Tax Appeals Commission shall notify the legal division of the
27 Department of Revenue in writing that an appeal has been filed

1 and shall mail a copy of such notification to the taxpayer or
2 its authorized representative. The legal division shall file a
3 written answer with the Tax Appeals Commission within 60 days
4 from the date of issuance of the notice to the legal division.
5 The judge may allow the legal division additional time, not to
6 exceed 30 days, within which to file an answer, but only if
7 the legal division requests the extension within the 60-day
8 period provided by the preceding sentence. The answer shall
9 state the facts and the issues involved and the Department of
10 Revenue's position relating thereto. The judge may require the
11 Department of Revenue to file an amended answer if more
12 information is deemed necessary. A county or municipality may
13 consult with the legal division of the Department of Revenue
14 concerning any appeal that involves the county's or
15 municipality's tax that is administered by the Department of
16 Revenue.

17 (2) If the appeal involves a tax levied by or on
18 behalf of a self-administered county or municipality, the Tax
19 Appeals Commission shall promptly mail a copy of the notice of
20 appeal by either U.S. mail with delivery confirmation or
21 certified U.S. mail to the governing body of the affected
22 county or municipality and shall provide the taxpayer or its
23 authorized representative with written notification of the
24 date the copy was mailed to the governing body. The affected
25 county or municipality shall file a written answer with the
26 Tax Appeals Commission within 60 days of the date of mailing
27 the notice of appeal to the affected county or municipality.

1 The judge may allow the county or municipality additional
2 time, not to exceed 30 days, within which to file an answer,
3 but only if the county or municipality requests the extension
4 within the 60-day period provided by the preceding sentence.
5 The answer shall state the facts and the issues involved and
6 the county's or municipality's position relating thereto. The
7 judge may require the county or municipality to file an
8 amended answer if more information is deemed necessary. The
9 county or municipality and its authorized representatives may
10 consult with the legal division of the Department of Revenue
11 concerning the appeal.

12 (e) An appeal may be held in abeyance at the
13 discretion of the judge or may be submitted for decision on a
14 joint stipulation of facts without a hearing or as otherwise
15 agreed by the parties. Otherwise, except as provided in
16 Section 40-2B-9 (b), a hearing shall be conducted by the
17 judge. Notice of the hearing shall be mailed to the taxpayer
18 at the taxpayer's last known address, by either U.S. mail with
19 delivery confirmation or certified U.S. mail, return receipt
20 requested, or to the taxpayer's representative, if any, at the
21 representative's last known address, by either U.S. mail with
22 delivery confirmation or certified U.S. mail, return receipt
23 requested. Except as provided in the next sentence, notice of
24 the hearing shall be mailed to the Department of Revenue by
25 first class U.S. mail, by intragovernmental hand-mail, or
26 otherwise delivered as provided by regulation. If the appeal
27 involves a tax levied by or on behalf of a self-administered

1 county or municipality, the Tax Appeals Commission shall
2 instead promptly mail a copy of the notice of the hearing to
3 the governing body of the affected county or municipality by
4 either U.S. mail with delivery confirmation or certified U.S.
5 mail. The judge shall conduct the hearing substantially as
6 follows:

7 (1) Open the record and receive appearances.

8 (2) Receive testimony and exhibits presented by the
9 parties. All testimony shall be under oath, and any person
10 testifying under oath shall be subject to the perjury
11 provisions of Section 13A-10-102.

12 (3) Interrogate witnesses if deemed necessary.

13 (4) Require oral arguments and the submission of
14 briefs and other authorities if deemed necessary.

15 (5) Continue or reopen the hearing as deemed
16 necessary for a fair, efficient, and complete resolution of
17 the matter or matters in dispute.

18 (f) A judge may enter a preliminary order directing
19 one or more parties to take such action as deemed appropriate
20 or referring any issue or issues in dispute to the Department
21 of Revenue's Taxpayer Advocate for consideration if the issue
22 or issues relate to a tax administered by the Department of
23 Revenue. A judge, after a hearing or after a case is otherwise
24 submitted for decision, may issue an opinion and preliminary
25 order, which shall include findings of fact and conclusions of
26 law. The opinion and preliminary order may direct the
27 department to recompute a taxpayer's liability or the amount

1 of a refund due or for any party to take such action as
2 specified in the preliminary order.

3 (g) A final order shall be entered by the judge
4 which, if deemed appropriate by the judge, shall contain
5 findings of fact and conclusions of law. The final order shall
6 provide appropriate relief under the circumstances, and,
7 unless altered or amended on appeal or rehearing, shall have
8 the same force and effect as a final order issued by a circuit
9 court in Alabama.

10 (h) If a preliminary order, an opinion and
11 preliminary order, or a final order involves a tax levied by
12 or on behalf of a self-administered county or municipality and
13 is within the jurisdiction of the Tax Appeals Commission, the
14 Tax Appeals Commission shall mail a copy of the order to the
15 governing body of the affected county or municipality and, if
16 applicable, its authorized representative, by either U.S. mail
17 with delivery confirmation or certified U.S. mail return
18 receipt requested, within three days of the date of entry. The
19 failure of the Tax Appeals Commission, however, to timely mail
20 a copy of an order to the affected municipality or county, or
21 the failure of the municipality or county to receive the
22 order, shall not affect the validity of the order.

23 (i) Any party may apply for rehearing from any final
24 order or opinion and preliminary order, provided, however, the
25 application must be filed within 15 days from the date of
26 entry of such order. The application for rehearing shall
27 specify the reasons and supporting arguments why such order is

1 incorrect and should be reconsidered. The timely filing of an
2 application for rehearing from a final order shall suspend the
3 time period for filing an appeal to circuit court. If an
4 application for rehearing is timely filed, the judge shall
5 thereafter issue a final or other order on rehearing, either
6 with or without a hearing on the application, at the
7 discretion of the judge. The time for filing a notice of
8 appeal to circuit court shall begin anew on the date of entry
9 of the final order on rehearing.

10 (j) All hearings before the Tax Appeals Commission
11 shall be recorded by a qualified court reporter. The
12 proceedings shall be transcribed at the request of either the
13 department, the taxpayer, the affected self-administered
14 county or municipality, or the Tax Appeals Commission, with
15 the expense of transcription to be paid by the requesting
16 party. The record of the proceedings shall be maintained by
17 the Tax Appeals Commission for at least five years. Upon
18 appeal to circuit court, the Tax Appeals Commission shall
19 submit the record on appeal, including any transcript, to the
20 circuit court for use in the appeal.

21 (k) The rules of evidence applicable in civil
22 nonjury cases in the circuit courts of Alabama shall be
23 followed by the Tax Appeals Commission. Evidence not
24 admissible thereunder may be admitted, however, in the
25 discretion of the judge, if relevant, not unfairly prejudicial
26 to any party, and necessary for the fair adjudication of the
27 case. The judge may announce before or during a hearing that

1 it shall not be necessary for either party to object to any
2 testimony or evidence offered by a party, and any objections
3 shall be preserved and may be made on appeal. The final order
4 issued by the judge shall be based only on such evidence as is
5 relevant and material. Documentary evidence may be received in
6 copy form if there is no objection thereto or in the
7 discretion of the judge. Official notice may be taken of any
8 technical facts within the specialized knowledge of the judge.

9 (l) A taxpayer or a self-administered county or
10 municipality may be represented before the Tax Appeals
11 Commission by an authorized representative. If a taxpayer or a
12 self-administered county or municipality or their authorized
13 representative fails to appear at a hearing after proper
14 service of notice, the judge may dismiss the appeal with
15 prejudice, reset the matter for a subsequent hearing, or
16 proceed with the hearing.

17 (m) Any taxpayer upon application, and at the
18 discretion of the judge, may be permitted to intervene in any
19 dispute before the Tax Appeals Commission if that taxpayer has
20 a personal interest in the outcome of the case as
21 distinguished from a public interest and the taxpayer's
22 interest is not otherwise adequately represented in the case.
23 Intervenors may also appeal to circuit court from a final or
24 other appealable order, as provided herein for appeals.
25 Parties interested in the outcome of any case before the Tax
26 Appeals Commission, with the permission of the judge, may
27 submit amicus briefs.

1 (n) All testimony, exhibits, documents, and other
2 materials submitted by a party or introduced into evidence at
3 a hearing before the Tax Appeals Commission, and all final and
4 other orders issued by the judge, shall be deemed public
5 information except:

6 (1) Information received from the Internal Revenue
7 Service that is restricted by law or agreement from
8 disclosure.

9 (2) Other information or records required by law not
10 to be disclosed or which is the subject of a protective order
11 issued pursuant to Section 40-2B-11(b).

12 (3) As otherwise ordered by the judge.

13 §40-2B-10. Burden of proof in Tax Appeals Commission
14 proceedings.

15 On appeal to the Tax Appeals Commission, a final
16 assessment shall be prima facie correct, and the burden of
17 proof shall be on the taxpayer to prove that the assessment is
18 incorrect. In cases involving denied refunds, the burden shall
19 also be on the taxpayer to prove that a refund is due. The
20 judge shall have discretion to determine the party to proceed
21 first with the evidence in the case.

22 §40-2B-11. Hearings to be open to public; report of
23 proceedings; exception; confidential information.

24 (a) Hearings before the Tax Appeals Commission shall
25 be open to the public, except as provided in subsections (b)
26 and (c).

1 (b) A judge may close a hearing to the public if, in
2 the discretion of the judge, trade secrets, federal or other
3 tax information, confidential business records, or other
4 confidential information may be disclosed during the hearing.
5 A judge may also issue protective orders concerning any
6 evidence involving trade secrets, federal or other tax
7 information, confidential business records, or other
8 confidential information. In determining whether a hearing
9 should be closed or a protective order issued, the judge shall
10 weigh the harm that may be suffered by the disclosing party
11 against any benefit received by the public as a result of the
12 disclosure. If the judge closes a hearing or issues a
13 protective order as requested by a party or refuses to close a
14 hearing or issue a requested protective order, the judge shall
15 issue an order to that effect. The order shall explain the
16 reasons why the request was granted or denied, as applicable.

17 (c) An order closing a hearing or granting a
18 protective order or an order denying same shall be considered
19 a final order for purposes of appeal to circuit court. A party
20 may appeal such an order to circuit court in the same manner
21 and subject to the same requirements as appeals from final
22 orders of the Tax Appeals Commission, except that if the case
23 involves a disputed final assessment, the final assessment
24 need not be paid, nor a supersedeas bond or other security
25 filed, in connection with the appeal. The Tax Appeals
26 Commission may stay the case on the merits until the issue is
27 finally resolved on appeal.

1 §40-2B-12. Authority to issue regulations. The Tax
2 Appeals Commission, through the chief judge, is authorized to
3 issue regulations governing procedures and practice before the
4 Tax Appeals Commission, and matters of internal organization
5 and operation. Such regulations shall be issued in accordance
6 with Chapter 22 of Title 41.

7 §40-2B-13. Appeals to circuit court; reviewing
8 authority and action on appeal.

9 (a) Other than an application for rehearing to the
10 Tax Appeals Commission, the exclusive remedy for review of any
11 final or other appealable order issued by the Tax Appeals
12 Commission shall be by appeal to the appropriate circuit
13 court.

14 (b) The taxpayer, an intervenor pursuant to Section
15 40-2B-9(m), a self-administered county or municipality whose
16 tax is within the jurisdiction of the Tax Appeals Commission,
17 or the Department of Revenue may appeal to circuit court from
18 a final or other appealable order issued by the Tax Appeals
19 Commission by filing a notice of appeal with the appropriate
20 circuit court within 60 days from the date the final or other
21 appealable order was entered. A copy of the notice of appeal
22 shall be submitted to the Tax Appeals Commission within the
23 60-day appeal period. The Tax Appeals Commission shall
24 thereafter prepare a record on appeal. The appeal shall be
25 filed in the following circuit courts:

26 (1) Any appeal by the Department of Revenue, a
27 self-administered county or municipality whose tax is within

1 the jurisdiction of the Tax Appeals Commission, or an
2 intervenor shall be filed with the circuit court of the county
3 in which the taxpayer resides or has a principal place of
4 business in Alabama.

5 (2) Any appeal by the taxpayer may be filed with the
6 Circuit Court of Montgomery County, Alabama, or with the
7 circuit court of the county in which the taxpayer resides or
8 has a principal place of business in Alabama.

9 (3) Notwithstanding subdivisions (1) and (2), if the
10 taxpayer does not reside in Alabama or have a principal place
11 of business in Alabama, any appeal by the taxpayer, the
12 Department of Revenue, a self-administered county or
13 municipality whose tax is within the jurisdiction of the Tax
14 Appeals Commission, or an intervenor shall be filed with the
15 Circuit Court of Montgomery County, Alabama.

16 (c) If the appeal to circuit court pursuant to
17 subsection (b) is by a taxpayer from a final order involving a
18 final assessment, the taxpayer, within the 60-day appeal
19 period, shall do one of the following:

20 (1) Remit the amount of the final assessment
21 determined to be due by the final order to the Department of
22 Revenue, or to the self-administered county or municipality,
23 if applicable.

24 (2) Execute a supersedeas bond, which shall be
25 executed by a surety company licensed to do business in
26 Alabama, in an amount equal to 125 percent of the amount
27 determined to be due by the final order, plus applicable

1 interest and any court costs relating to the appeal, payable
2 to the Department of Revenue, or to the self-administered
3 county or municipality, if applicable, and conditioned to pay
4 the amount determined to be due by the final order.

5 (3) File an irrevocable letter of credit with the
6 circuit court in an amount equal to 125 percent of the amount
7 determined to be due by the final order. The irrevocable
8 letter of credit shall be issued by a financial institution
9 designated as a qualified public depository by the Board of
10 Directors of the Security for Alabama Funds Enhancement (SAFE)
11 Program pursuant to Chapter 14A of Title 41. The Department of
12 Revenue, or the self-administered county or municipality, if
13 applicable, shall be named the beneficiary of the irrevocable
14 letter of credit. The irrevocable letter of credit shall be
15 conditioned to pay the amount determined to be due by the
16 final order, plus applicable interest and any court costs
17 relating to the appeal. A taxpayer may not issue an
18 irrevocable letter of credit as to an appeal by the same
19 taxpayer.

20 (4) File a pledge or collateral assignment of
21 securities with the circuit court that constitute eligible
22 collateral under Chapter 14A of Title 41, in an amount equal
23 to 200 percent of the amount determined to be due by the final
24 order. The pledge or collateral assignment shall be in favor
25 of the Department of Revenue, or the self-administered county
26 or municipality, if applicable, and conditioned to pay the
27 amount determined to be due by the final order, plus

1 applicable interest and any court costs relating to the
2 appeal.

3 (5) Show to the satisfaction of the clerk of the
4 circuit court to which the appeal is taken that the taxpayer
5 has a net worth, based on fair market value, of one hundred
6 thousand dollars (\$100,000), or less, including his or her
7 homestead.

8 (d) (1) Except as provided in subdivision (2), the
9 circuit court shall dismiss any appeal:

10 a. That is not timely filed with the circuit court
11 and the Tax Appeals Commission as herein provided.

12 b. That involves a final assessment, if either the
13 amount stated as due in the final order of the Tax Appeals
14 Commission is not timely paid in full, or a supersedeas bond,
15 irrevocable letter of credit, or pledge or collateral
16 assignment of securities is not timely filed as required in
17 subsection (c).

18 (2) If the circuit court determines that the
19 taxpayer has not satisfied the requirements of subsection (b)
20 or (c), the circuit court shall order that the taxpayer
21 satisfy such requirements. The taxpayer may satisfy such
22 requirements at any time within 30 days after service of the
23 court order. No order of dismissal for lack of jurisdiction
24 shall be entered within 30 days after service of the court
25 order and no order of dismissal shall thereafter be entered if
26 such requirement is satisfied within such 30-day period.

1 (e) The appeal to circuit court from a final or
2 other appealable order issued by the Tax Appeals Commission
3 shall be a trial de novo, except that the order shall be
4 presumed prima facie correct, and the burden shall be on the
5 appealing party to prove otherwise. The circuit court shall
6 hear the case by its own rules and shall decide all questions
7 of fact and law. The administrative record and transcript
8 shall be transmitted to the reviewing court as provided
9 herein, and shall be admitted into evidence in the trial de
10 novo, subject to the rights of either party to object to any
11 testimony or evidence in the administrative record or
12 transcript. With the consent of all parties, judicial review
13 may be on the administrative record and transcript. The
14 circuit court shall affirm, modify, or reverse the order of
15 the Tax Appeals Commission, with or without remanding the case
16 for further hearing, as justice may require.

17 §40-2B-14. Publication of Tax Appeals Commission
18 decisions.

19 Subject to Section 40-2B-9, the decisions determined
20 to be of general public interest may be published and
21 distributed by the Tax Appeals Commission, as prescribed by
22 the chief judge. Provided that a decision may not be published
23 until either the time period for appealing the decision has
24 expired or the Tax Appeals Commission has received a copy of
25 the notice of appeal pursuant to Section 40-2B-13(b), in which
26 case the fact that the decision has been appealed shall be
27 noted on the first page of the published decision. A

1 reasonable fee may be charged for the publication, as
2 established from time to time by the chief judge.

3 §40-2B-15. Appointment and term of judges; maximum
4 number; vacancy.

5 (a) The term of a judge of the Tax Appeals
6 Commission shall be eight years, except as herein provided.
7 The term of the first chief judge shall begin on October 1,
8 2012.

9 (b) Additional or successor judges of the Tax
10 Appeals Commission shall be nominated by a committee of six
11 persons, except as provided below. The nominating committee
12 shall provide the Governor with a list of three qualified
13 candidates for each open or newly created Tax Appeals
14 Commission judge's position. Within 45 days after receipt of
15 the list, the Governor shall choose a nominee from that list
16 of candidates and submit his or her name to the Senate
17 Judiciary Committee for approval. The nominee's name, if
18 approved by the Senate Judiciary Committee, shall then be
19 submitted for approval by the full Senate. If the Senate fails
20 to approve the nominee by the adjournment of the legislative
21 session during which the Governor submits the nominee's name,
22 the nominating committee shall promptly thereafter submit the
23 list of three qualified candidates to the Chief Justice of the
24 Alabama Supreme Court, who shall choose a nominee from that
25 list to serve as judge. The term of any new or successor judge
26 shall begin on the first day of the month following the date

1 of approval by the full Senate or selection by the Chief
2 Justice of the Alabama Supreme Court.

3 (c) The nominating committee shall be organized
4 within six months of the effective date of this act and shall
5 consist of the following:

6 (1) One member in good standing with the Alabama
7 State Bar who has at least five years' experience in the
8 private practice of tax law in this state, to be appointed by
9 the State Bar President.

10 (2) The Commissioner of the Department of Revenue,
11 or his or her designee.

12 (3) Except as otherwise provided in this
13 subdivision, one member appointed by the Lieutenant Governor,
14 who shall be a representative of county government. If more
15 than 50 percent of the self-administered counties in this
16 state have elected to divest the Tax Appeals Commission of
17 jurisdiction pursuant to Section 40-2B-25 as of October 1 of
18 each year, the representative of county government shall be
19 removed and the Director of Finance or his or her designee
20 shall serve as a member of the nominating committee.

21 (4) Except as otherwise provided in this
22 subdivision, one member appointed by the Speaker of the House
23 of Representatives, who shall be a representative of municipal
24 government. If more than 50 percent of the self-administered
25 municipalities in this state have elected to divest the Tax
26 Appeals Commission of jurisdiction pursuant to Section
27 40-2B-25 as of October 1 of each year, the representative of

1 municipal government shall be removed and the Director of
2 Finance or his or her designee shall serve as a member of the
3 nominating committee. If more than 50 percent of the
4 self-administered counties and more than 50 percent of the
5 self-administered municipalities have elected to divest the
6 Tax Appeals Commission of jurisdiction pursuant to Section
7 40-2B-25 as of October 1 of each year, there shall only be
8 five members of the nominating committee, the fifth of which
9 is the Director of Finance or his or her designee.

10 (5) Two members appointed by the President of the
11 Alabama Circuit Judges Association, who shall be
12 representatives of the taxpayers of the state but who shall
13 not be practicing attorneys or employees or former employees
14 of the Department of Revenue or municipal or county
15 government.

16 The appointing authorities should take into
17 consideration the racial, gender, geographic, urban/rural, and
18 economic diversity of the state when selecting representatives
19 for the nominating committee.

20 (d) The appointing authorities shall submit to the
21 Governor's Office the name or names of the initial member or
22 members appointed to the nominating committee. The term of a
23 member of the nominating committee shall be six years, and
24 shall begin on the first day of the month following the
25 submission of the member's appointment letter by the
26 appointing authority to the Governor's Office. An appointing
27 authority may remove a sitting member or members previously

1 appointed by such authority and appoint another member or
2 members before the term of the sitting member or members has
3 expired, by filing notice of such action with the Governor's
4 Office. An appointing authority may also appoint a new or
5 replacement member if a sitting member dies, resigns, or is
6 otherwise unable to serve. The term of any new or replacement
7 member shall begin on the first day of the month following the
8 submission to the Governor's Office of the appointment letter
9 naming the new or replacement member to the committee. Members
10 of the nominating committee shall serve without compensation
11 or reimbursement for expenses. The nominating committee shall
12 appoint a chair and secretary from among themselves and adopt
13 rules and procedures for the conduct of its meetings and other
14 business of the nominating committee. The secretary shall
15 maintain the permanent records of the nominating committee. A
16 copy of all appointment letters submitted by an appointing
17 authority to the Governor's Office shall be mailed or
18 otherwise delivered to the secretary of the nominating
19 committee, once a secretary is appointed. The committee may
20 conduct private meetings, as deemed appropriate by the
21 committee, but only in compliance with applicable laws. The
22 nominating committee shall compile a list of three nominees by
23 majority vote and shall otherwise act by a majority vote at
24 any meeting at which a quorum is present either in person, by
25 written proxy, or by the written consent of all its members.
26 For the purposes of this section, a quorum shall consist of a

1 majority of the members of the nominating committee then
2 serving.

3 (e) Any sitting judge, at the end of his or her
4 term, shall be automatically appointed to a subsequent
5 eight-year term unless the judge is recalled in accordance
6 with this subsection. A recall may be initiated by the
7 Governor, Attorney General, or the Judicial Inquiry Commission
8 by submitting a petition for recall to the Chief Judge of the
9 Court of the Judiciary no more than 12 and no less than three
10 months before the end of a judge's current term. The petition
11 shall state the reasons why the judge should not serve another
12 eight-year term. A copy of the petition for recall shall be
13 simultaneously submitted to the chair of the nominating
14 committee. In such case, the nominating committee shall
15 provide an objective, written appraisal of the performance of
16 the sitting judge to the Chief Judge of the Court of the
17 Judiciary for use in determining the competency and fitness of
18 the judge, including a recommendation by the committee. If the
19 Court of the Judiciary votes to recall the judge, the judge is
20 not reappointed to another eight-year term, and a successor
21 judge shall be appointed as provided in subsection (b). The
22 term of the judge subject to the petition for recall shall be
23 extended during the pendency of the recall proceedings, and if
24 recalled, the judge shall continue to serve until a successor
25 judge is appointed as provided in subsection (b). If a
26 petition for recall is timely submitted, but the Court of the
27 Judiciary does not vote to recall the judge, the judge shall

1 thereafter be automatically appointed to another eight-year
2 term.

3 (f) There shall be no less than one nor more than
4 three judges serving at any one time. The initial judge of the
5 Tax Appeals Commission shall serve as chief judge. If the
6 chief judge determines that a second or third judge is
7 necessary, based on current and anticipated case load, the
8 chief judge shall so notify the nominating committee, and the
9 nominating committee shall thereafter determine whether a
10 second or third judge is necessary. If the nominating
11 committee agrees with the chief judge's determination, the
12 nominating committee shall commence proceedings under this
13 section to fill the additional position. The chief judge may,
14 with the advice and consent of the nominating committee,
15 eliminate an associate judge position if the current and
16 anticipated case load does not warrant the position.

17 (g) If a Tax Appeals Commission judge's position
18 becomes vacant, the vacancy shall be filled according to the
19 method set forth in subsection (b).

20 §40-2B-16. Qualifications of Tax Appeals Commission
21 judge; oath; Tax Appeals Commission employees.

22 (a) Each Tax Appeals Commission judge shall be a
23 United States citizen, domiciled in Alabama, and a member in
24 good standing of the Alabama State Bar Association. The chief
25 judge must have at least 10 years' experience and an associate
26 judge must have at least five years' experience, either in the
27 active practice of law in Alabama, whether in the governmental

1 or private sector, or in a judicial or quasi-judicial office
2 such as an administrative law judge. The judge shall possess
3 an acceptable judicial temperament and a high level of
4 knowledge and degree of experience in the area of state and
5 local taxation, as determined by the nominating committee.

6 (b) Before entering upon the duties of office, the
7 judge shall take and subscribe to an oath or affirmation for
8 the faithful discharge of his or her duties.

9 (c) Tax Appeals Commission judges shall be subject
10 to disciplinary proceedings before the Judicial Inquiry
11 Commission to the same extent as circuit judges. The Judicial
12 Inquiry Commission shall have the authority to remove any Tax
13 Appeals Commission judge from office, after notice and an
14 opportunity to be heard, for neglect of duty, inability to
15 perform duties, malfeasance in office, or other good cause.

16 (d) Tax Appeals Commission judges shall be
17 classified state employees as provided in Section 36-26-10. As
18 such, a judge, except for appointment, reconfirmation,
19 removal, and dismissal as provided in this chapter, shall be
20 entitled to all benefits and protections available to
21 classified state employees, including the right to participate
22 in any retirement benefit plan available to certain state
23 employees from time to time. A judge who is qualified and who
24 elects to participate in any such retirement plan, while
25 participating in the plan, shall retain the same status,
26 duties, authority, and rights as granted to Tax Appeals
27 Commission judges by this chapter. If a judge, while

1 participating in such plan, is not automatically reappointed
2 or not reappointed and reconfirmed to another term as herein
3 provided, the judge shall be considered as having been
4 involuntarily terminated for purposes of receiving any
5 retirement benefits and member contributions pursuant to the
6 retirement plan. If at the time of appointment, a judge is a
7 Merit System employee of the state, the judge shall be
8 entitled to carry over, continue, and retain any of the
9 benefits resulting from prior state employment. Tax Appeals
10 Commission judges shall also participate in the State
11 Employees' Retirement System.

12 (e) The chief judge may employ one Executive
13 Assistant III as an unclassified service state employee, as
14 provided in Section 36-26-10(c). All other Tax Appeals
15 Commission personnel shall be appointed or hired by the chief
16 judge, as necessary for the proper operation of the Tax
17 Appeals Commission, shall be state employees under the state
18 Merit System, and shall be entitled to all benefits and
19 protections available to state employees. The Executive
20 Assistant III employed in the Administrative Law Division as
21 of September 30, 2012, shall be transferred to the Tax Appeals
22 Commission, along with any other Merit System employees
23 employed by the Administrative Law Division on that date.

24 §40-2B-17. Judge's salary, expenses.

25 (a) The chief judge of the Tax Appeals Commission
26 shall receive such salary as is provided from time to time
27 within Pay Grade 88 of the compensation plan of the state

1 Merit System, as determined by the Governor with the advice of
2 the nominating committee. Associate judges shall receive such
3 salary as is provided from time to time within Pay Grade 84 of
4 the compensation plan of the state Merit System, as determined
5 by the chief judge with the advice of the nominating
6 committee. The judges shall receive no other monetary
7 compensation for services except as authorized by subsection
8 (b). This subsection shall neither increase nor decrease the
9 salary received by the chief administrative law judge of the
10 Department of Revenue, who shall become the initial chief
11 judge of the Tax Appeals Commission pursuant to Section
12 40-2B-18(a).

13 (b) When a judge or other Tax Appeals Commission
14 employee travels on Tax Appeals Commission business away from
15 the state capital, he or she shall be reimbursed as provided
16 for other state employees in Sections 36-7-20, 36-7-21,
17 36-7-22, and 36-7-24. The chief judge, at his or her
18 discretion, may direct and require any judge or other employee
19 of the Tax Appeals Commission to attend continuing legal
20 education or other training as necessary.

21 §40-2B-18. Chief judge; associate judges; functions.

22 (a) The initial chief judge of the Tax Appeals
23 Commission shall be the chief administrative law judge of the
24 Department of Revenue serving on September 30, 2012.
25 Thereafter, the individual who is nominated as chief judge by
26 the nominating committee, appointed by the Governor, and
27 approved by the Senate or appointed by the Chief Justice of

1 the Alabama Supreme Court, as provided in Section 40-2B-15(b),
2 shall serve as chief judge.

3 (b) The chief judge shall assign cases and otherwise
4 have authority over the operations of the Tax Appeals
5 Commission, including any associate judge. The chief judge
6 shall also have the discretion to order the Tax Appeals
7 Commission to hear cases en banc if there is more than one
8 judge sitting at that time.

9 (c) All judges of the Tax Appeals Commission, other
10 than the chief judge, shall be designated as associate judges,
11 and shall have the same authority and powers of the chief
12 judge, except as specified in this chapter.

13 (d) If a judge of the Tax Appeals Commission dies,
14 retires, or resigns, or is unable to serve as judge, or is
15 removed from office for cause, the Chief Justice of the
16 Supreme Court of Alabama, at the request of the nominating
17 committee, may appoint a Tax Appeals Commission judge pro
18 tempore, who must meet the qualifications for a Tax Appeals
19 Commission judge set forth in Section 40-2B-16(a). Such
20 appointment shall become effective the first day of the month
21 following the submission of the appointment letter by the
22 chief justice to the Governor's Office. Such judge pro tempore
23 shall serve until such time as a successor judge is confirmed
24 by the Senate, as provided herein. If the judge pro tempore is
25 appointed to fill the position of chief judge, he or she shall
26 be compensated at the rate provided herein for the chief
27 judge, and shall have and exercise all powers granted the

1 chief judge. Otherwise, a judge pro tempore shall be
2 compensated at the rate of an associate judge, and shall have
3 and exercise all the powers granted an associate judge. Such
4 compensation shall be paid out of the appropriation for the
5 Tax Appeals Commission. The chief judge may also appoint a
6 judge pro tempore to hear a special case or cases, as assigned
7 by the chief judge, including in cases where a judge
8 disqualifies himself or herself on his or her own motion. Such
9 judge pro tempore must meet the qualifications set forth in
10 Section 40-2B-16(a), and shall be compensated at a rate
11 specified by the chief judge, but not at a rate that exceeds
12 any rate paid to an associate judge.

13 §40-2B-19. Offices of Tax Appeals Commission;
14 location of hearings.

15 The principal office of the Tax Appeals Commission
16 shall be in Montgomery and in a building that is separate and
17 apart from any building in which the Department of Revenue has
18 an office, as selected by the chief judge. The Tax Appeals
19 Commission may hold hearings in any county seat, in the
20 discretion of the chief judge. If the appeal involves a tax
21 levied by or on behalf of a self-administered county or
22 municipality, the Tax Appeals Commission may hold the hearing
23 in the county seat of the affected county or the county seat
24 of the county in which the affected municipality is located.
25 The circuit court sitting in any county, without charge and
26 upon reasonable notice from a judge of the Tax Appeals
27 Commission, shall provide the Tax Appeals Commission with

1 suitable rooms and facilities within the courthouse space
2 assigned to the circuit court. The county commission shall
3 have no obligation or responsibility to provide space or
4 facilities. The Tax Appeals Commission may also hold hearings
5 in the Department of Revenue's service centers located
6 throughout the state.

7 §40-2B-20. Authority to contract and expend funds;
8 budget of Tax Appeals Commission; limitation on activities of
9 personnel.

10 (a) The Tax Appeals Commission, through the chief
11 judge, may contract or enter into agreements with any private
12 or governmental agency, including the Administrative Office of
13 Courts or the Retirement Systems of Alabama, for the rental of
14 office space, and the rental or purchase of equipment,
15 administrative or other support services, supplies, and all
16 other property or services necessary for the operation of the
17 Tax Appeals Commission. The funds for the operation of the Tax
18 Appeals Commission shall be administered by the Tax Appeals
19 Commission, through the chief judge. With respect to the
20 fiscal year ending September 30, 2013, there shall be
21 transferred from the Revenue Department Administrative Fund to
22 the Tax Appeals Commission the amount of four hundred
23 twenty-five thousand dollars (\$425,000). The amount
24 transferred from the Revenue Department Administrative Fund
25 shall be disbursed to the Tax Appeals Commission in four equal
26 increments, at the beginning of each quarter of the fiscal
27 year. Thereafter, the Tax Appeals Commission, through the

1 chief judge, shall prepare an annual budget, and sufficient
2 funds shall be appropriated annually by the Legislature from
3 the Revenue Department Administrative Fund to be used
4 exclusively for the operation of the Tax Appeals Commission.

5 (b) No employee of the Tax Appeals Commission or
6 person serving as judge pro tempore shall act as an authorized
7 representative or representative of the department before the
8 Tax Appeals Commission while an employee or while serving as a
9 judge pro tempore. Nor shall any former employee of the Tax
10 Appeals Commission or former judge pro tempore act as an
11 authorized representative, representative of the department,
12 or otherwise participate in any case that was pending before
13 the Tax Appeals Commission on the date of termination of that
14 person's employment with or service on behalf of the Tax
15 Appeals Commission. A former Tax Appeals Commission judge may
16 represent a client before the Tax Appeals Commission in a
17 legal, non-lobbying capacity, in a case that was not pending
18 before the Tax Appeals Commission when the judge left office,
19 to the same extent former members of the Alabama judiciary are
20 allowed by Section 36-25-13.

21 §40-2B-21. Records.

22 The Tax Appeals Commission shall maintain an
23 official docket, fee book, and other records as deemed
24 necessary by the chief judge. Such records may be maintained
25 in electronic format.

26 §40-2B-22. Filing fees prohibited.

1 No filing fee shall be imposed for any appeal filed
2 with the Tax Appeals Commission.

3 §40-2B-23. Fees and expenses of witnesses. Any
4 witness subpoenaed by the Tax Appeals Commission on its own
5 motion to testify or produce records at a hearing before the
6 Tax Appeals Commission shall be entitled to receive from the
7 Tax Appeals Commission the fees and mileage provided in
8 Section 40-2A-7(a)(4). Any witness subpoenaed by the Tax
9 Appeals Commission at the request of a party to testify or
10 produce records at such a hearing shall be entitled to receive
11 from the requesting party the fees and mileage provided in
12 Section 40-2A-7(a)(4).

13 §40-2B-24. Department of Revenue allowed to
14 acquiesce or nonacquiesce in Tax Appeals Commission and
15 circuit court decisions.

16 (a) The commissioner or deputy commissioner may
17 state and periodically publish the Department of Revenue's
18 acquiescence or nonacquiescence to indicate its position on
19 decisions of the Tax Appeals Commission or a circuit court.

20 (b) Acquiescence in a decision means acceptance by
21 the Department of Revenue of the conclusion reached, but does
22 not necessarily mean acceptance and approval of the reasons or
23 rationale of the Tax Appeals Commission or circuit court for
24 its conclusion.

25 §40-2B-25. Election by Self-Administered County or
26 Municipality to Divest Jurisdiction of Tax Appeals Commission.

1 (a) Unless a self-administered county or
2 municipality elects, in the manner prescribed below, to divest
3 the Tax Appeals Commission of jurisdiction over appeals of
4 final assessments or denied refunds in whole or in part, of
5 any sales, use, rental or lodgings taxes levied or collected
6 from time to time by or on behalf of the self-administered
7 county or municipality, a taxpayer may appeal a final
8 assessment or denied refund involving any such tax to the Tax
9 Appeals Commission in accordance with the procedures and
10 requirements provided in Section 40-2A-7 and this chapter. For
11 purposes of any appeal filed by a taxpayer pursuant to this
12 section, the term "department" as used in Section 40-2A-7
13 means the governing body of the applicable self-administered
14 county or municipality and not the Department of Revenue, and
15 the term "secretary" as used in Section 40-2A-7 means the
16 clerk of the governing body of the applicable
17 self-administered county or municipality.

18 (b) Subject to the limitation imposed by subsection
19 (e), the election-out under this section shall be made by
20 serving a copy of the ordinance or resolution evidencing the
21 election-out, adopted by the governing body of the
22 self-administered county or municipality pursuant to this
23 section, with the Tax Appeals Commission. Service may be
24 accomplished by mailing a copy of the ordinance or resolution,
25 certified by an appropriate official, by either U.S. mail with
26 delivery confirmation or certified U.S. mail, return receipt
27 requested, by hand delivery, or by an expedited courier

1 service to the Tax Appeals Commission's office. The Tax
2 Appeals Commission shall promptly publish notice of the
3 election-out pursuant to subsection (d), and the election
4 shall be effective on the date that notice is published.
5 Notwithstanding the foregoing, appeals of final assessments or
6 denied refunds involving the electing county or municipality
7 that were pending before the Tax Appeals Commission on the
8 date that notice of the election-out is published shall
9 continue to be heard and decided by the Tax Appeals Commission
10 as if the election-out had not been made.

11 (c) Subject to the limitation imposed by subsection
12 (e), an election-out may be revoked, prospectively, by the
13 governing body of the self-administered county or municipality
14 at any time by resolution or ordinance, a certified copy of
15 which shall be served on the Tax Appeals Commission in the
16 manner prescribed above. The revocation of an election-out
17 vests jurisdiction in the Tax Appeals Commission over all
18 appeals of final assessments or denied refunds, in whole or in
19 part, of the county's or municipality's sales, use, rental and
20 lodgings taxes that are entered or denied on or after the date
21 that notice of revocation is published by the Tax Appeals
22 Commission.

23 (d) At least once a month, the Tax Appeals
24 Commission shall provide the Department of Revenue with a list
25 of all self-administered counties and municipalities that have
26 elected-out pursuant to subsection (b), or that have filed a
27 notice of revocation of their election-out pursuant to

1 subsection (c). The Department of Revenue shall publish the
2 list on its website and otherwise make available to the public
3 in the same manner that the rates and administrators of
4 certain county and municipal taxes are published by the
5 Department of Revenue. The Tax Appeals Commission may also
6 publish the list on its own website.

7 (e) A self-administered county or municipality may
8 make only one election-out under subsection (b) or one
9 revocation under subsection (c) during each calendar year. If
10 an appeal is timely filed with the Tax Appeals Commission
11 after the notice of an election-out by the self-administered
12 county or municipality is published by the Tax Appeals
13 Commission, the appeal shall be deemed timely filed with and
14 transferred to the self-administered county or municipality.
15 If an appeal is timely filed with a self-administered county
16 or municipality after the notice of revocation by the
17 self-administered county or municipality is published by the
18 Tax Appeals Commission, the appeal shall be deemed timely
19 filed with and transferred to the Tax Appeals Commission.

20 Section 3. The Code Commissioner shall review Titles
21 11 and 40 and shall substitute "Alabama Tax Appeals
22 Commission" for any reference to the Administrative Law
23 Division of the Department of Revenue, and shall make any
24 other similar amendments consistent herewith.

25 Section 4. Sections 40-2A-3, 40-2A-4, 40-2A-5,
26 40-2A-7, 40-2A-8, 40-2A-11, and 40-18-27, Code of Alabama
27 1975, are amended to read as follows:

1 "§40-2A-3.

2 "~~For~~ Except as otherwise specifically provided or
3 limited, for the purposes of this chapter and Chapter 2B, the
4 following terms shall have the following meanings:

5 "~~(1) ADMINISTRATIVE LAW JUDGE. The chief~~
6 ~~administrative law judge of the department, or any other~~
7 ~~individual acting in that capacity as appointed by the~~
8 ~~commissioner.~~

9 "~~(2) ADMINISTRATIVE LAW DIVISION. The administrative~~
10 ~~law division of the department.~~

11 "(1) ASSOCIATE TAX APPEALS COMMISSION JUDGE. An
12 Associate Judge, as defined in Section 40-2B-18(c), of the
13 Alabama Tax Appeals Commission.

14 "~~(3)~~ (2) AUTHORIZED REPRESENTATIVE. Any individual
15 with written authority or power of attorney to represent a
16 taxpayer before the department or the Tax Appeals Commission;
17 provided however, that nothing herein shall be construed as
18 entitling any such individual who is not a licensed attorney
19 to engage in the practice of law.

20 "(3) CHIEF TAX APPEALS COMMISSION JUDGE or CHIEF
21 JUDGE. The Chief Judge, as defined in Section 40-2B-18(a), of
22 the Alabama Tax Appeals Commission.

23 "(4) COMMISSIONER. The commissioner of the
24 department or his or her delegate.

25 "(5) COMPTROLLER. The Comptroller of the State of
26 Alabama.

1 "(6) DELEGATE. When used with reference to the
2 commissioner means any officer or employee of the department
3 duly authorized by the commissioner, directly or indirectly,
4 by one or more redelegations of authority, to perform the
5 function described in the context.

6 "(7) DEPARTMENT or DEPARTMENT OF REVENUE. The
7 Alabama Department of Revenue.

8 "(8) GROSS RECEIPTS TAX IN THE NATURE OF A SALES
9 TAX. A privilege or license tax, imposed by a municipality or
10 county, measured by gross receipts or gross proceeds of sale
11 and which: (i) was in effect on or before February 25, 1997,
12 or is an amendment to a tax which was in effect on that date;
13 (ii) is levied against those selling tangible personal
14 property at retail, those operating public places of amusement
15 or entertainment, those making street deliveries, and those
16 leasing or renting tangible personal property; and (iii) is
17 due and payable to a county or municipality monthly or
18 quarterly.

19 "(9) FINAL ASSESSMENT. The final notice of value,
20 underpayment, or nonpayment of any tax administered by the
21 department.

22 "(10) INTEREST. That amount computed under Section
23 40-1-44, on any overpayment or underpayment of tax or under
24 Section 40-2A-18 on a final assessment.

25 "(11) INTERNAL REVENUE SERVICE. The agency of the
26 United States principally responsible for the determination,

1 assessment, and collection of taxes established by Title 26 of
2 the United States Code.

3 "(12) NOTICE OF APPEAL. Any written notice
4 sufficient to identify the name of the taxpayer or other party
5 appealing, the specific matter appealed from, the basis for
6 that appeal, and the relief sought.

7 "(13) PERSON. Any individual, association, estate,
8 trust, partnership, limited liability company, corporation,
9 real estate investment trust, or other entity of any kind.

10 "(14) PETITION FOR REFUND. Any written request for a
11 refund of any tax previously paid, including ~~a request~~ in the
12 form of ~~an~~ any return or amended return. Unless otherwise
13 provided by law, the request shall include sufficient
14 information to identify the type and amount of tax overpaid,
15 the taxpayer, the period included, and the reasons for the
16 refund.

17 "(15) PETITION FOR REVIEW. A written document filed
18 with the department in response to a preliminary assessment in
19 which the taxpayer sets forth reasonably specific objections
20 to ~~the~~ a preliminary assessment.

21 "(16) PRELIMINARY ASSESSMENT. The preliminary notice
22 of value, ~~or~~ underpayment, or nonpayment of any tax
23 administered by the department.

24 "(17) PRIVATE EXAMINING ~~AUDITING~~ OR COLLECTING FIRM.
25 Any person in the business of collecting, through contract or
26 otherwise, local sales, use, rental, lodgings or other taxes
27 or license fees for any county or municipality, or auditing

1 any taxpayer, through the examination of books and records,
2 for any county or municipality. The term shall not include any
3 of the following:

4 "a. The Department of Revenue.

5 "b. A county or municipality that has entered into a
6 contract or other arrangement to collect local sales, use,
7 rental, lodgings or other taxes or license fees on behalf of
8 another county or municipality, or to audit a taxpayer,
9 through the examination of books and records, on behalf of
10 another county or municipality.

11 "c. A person or firm whose sole function and purpose
12 on behalf of a municipality or group of municipalities is to
13 collect delinquent insurance premium license fees levied by
14 that municipality or group of municipalities, and who has no
15 authority to determine the amount of license fee, interest,
16 court cost, or penalty owed to the municipality or group of
17 municipalities.

18 "(18) PUBLICATION 1A. A written pamphlet to be
19 distributed by the department to all taxpayers whose books and
20 records are being examined by the department, at or before the
21 commencement of an examination, explaining in simple and
22 nontechnical terms, the role of the department and the rights
23 of the taxpayer, ~~whose books and records are being examined by~~
24 ~~the department during the examination and which shall be~~
25 promptly revised from time to time to reflect any changes in
26 the applicable law or rules.

1 "(19) RETURN. Any report, document, or other
2 statement required to be filed with the department for the
3 purpose of paying, reporting, or determining the proper amount
4 of value or tax due.

5 "(20) SECRETARY. The secretary of the department.

6 "(21) SELF-ADMINISTERED COUNTY OR MUNICIPALITY. A
7 county or municipality that administers its own sales and use
8 taxes or other local municipal or county taxes levied or
9 authorized to be levied by a general or local act, or
10 contracts out all or part of that function to a private
11 examining ~~auditing~~ or collecting firm. The term does not
12 include any of the following:

13 "a. A county or municipality that allows the
14 department to administer a sales, use, rental, or lodgings tax
15 which is levied by or on behalf of that county or
16 municipality.

17 "b. A municipality or county that levies a gross
18 receipts tax in the nature of a sales tax, as defined in
19 subdivision (8). A county or municipality that both
20 self-administers a sales, use, rental, or lodgings tax and
21 allows the department to administer a sales, use, rental, or
22 lodgings tax that is levied by or on behalf of the county or
23 municipality is only a self-administered county or
24 municipality with respect to those sales, use, rental, or
25 lodgings taxes that the county or municipality administers
26 itself or for those taxes that it contracts for the
27 collection.

1 "(22) TAX. Any amount, including applicable penalty
2 and interest, levied or assessed against a taxpayer and which
3 the department or any county, municipality, or their designees
4 are required or authorized to administer under the provisions
5 of Alabama law.

6 "(23) TAX APPEALS COMMISSION. The Alabama Tax
7 Appeals Commission, as described in Chapter 2B (commencing
8 with Section 40-2B-1).

9 "~~(23)~~(24) TAXPAYER. Any person subject to or liable
10 for any state or local tax; any person required to file a
11 return with respect to, or to pay, or withhold and remit any
12 state or local tax or to report any information or value to
13 the department, a county, municipality, or its designee; or
14 any person required to obtain or holding any interest in any
15 license, permit, or certificate of title issued by the
16 department, a county, municipality, or its designee, or any
17 person that may be affected by any act or refusal to act by
18 the department, a county, municipality, or its designee, or to
19 keep any records required by this chapter.

20 "~~(24)~~(25) TAXPAYER ADVOCATE. The person so
21 designated from time to time by the commissioner to assist the
22 taxpayers of the State of Alabama with regard to tax issues
23 resulting from any taxes administered or collected by the
24 department.

25 "~~(25)~~(26) TAXPAYER ASSISTANCE ORDER. A written order
26 issued by the Taxpayer Advocate and approved by either the
27 commissioner or assistant commissioner which, among other

1 items, states the facts and grants relief to a taxpayer
2 concerning an issue in dispute with the department with regard
3 to tax issues resulting from any taxes administered or
4 collected by the department or grants a waiver of penalties
5 otherwise owed to the department by a defined class or group
6 of taxpayers who are the subject of a declaration of natural
7 disaster by the Governor.

8 "§40-2A-4.

9 "(a) Rights of the taxpayer.

10 ~~"(1) For purposes of this section, the term~~
11 ~~"taxpayer" shall only mean a taxpayer whose books and records~~
12 ~~are subject to examination by the department, and shall not~~
13 ~~include any taxpayer regarding taxes collected or examined by~~
14 ~~a self-administered county or municipality.~~

15 "(1) For purposes of sections (a), (c), and (d), the
16 term "department" shall include the Department of Revenue, a
17 self-administered county or municipality, or a private
18 examining or collecting firm, depending on whether the
19 Department of Revenue, a self-administered county, or
20 municipality, or private examining or collecting firm is
21 conducting the examination of the taxpayer.

22 "(2) At or before the commencement of an examination
23 of the books and records of a taxpayer, the department shall
24 provide to the taxpayer the current version of Publication 1A.
25 Publication 1A shall provide, in simple and non-technical
26 terms, a statement of the taxpayer's rights. Those rights
27 include the right to be represented during an examination, an

1 explanation of their appeal rights, and the right to know the
2 criteria and procedures used to select taxpayers for an
3 examination.

4 "(3) At or before the issuance of a preliminary
5 assessment, the department shall provide to the taxpayer in
6 simple and non-technical terms:

7 "a. A written description of the basis for the
8 assessment and any penalty asserted with respect to the
9 assessment.

10 "b. A written description of the method by which the
11 taxpayer may request an administrative review of the
12 preliminary assessment.

13 "(4) ~~At or before~~ Together with the issuance of a
14 final assessment, the department shall inform the taxpayer by
15 a written statement of his or her right to appeal to the
16 ~~administrative law division~~ Tax Appeals Commission or to
17 circuit court and shall include the written description
18 required by subsection (2)a., as revised if necessary to
19 reflect any changes since the issuance of the preliminary
20 assessment.

21 "(5) Except in cases involving suspected criminal
22 violations of the tax law or other criminal activity, the
23 department shall conduct an examination of a taxpayer during
24 regular business hours after providing reasonable notice to
25 the taxpayer. A taxpayer who refuses a proposed time for an
26 examination on the grounds that the proposed examination would

1 cause inconvenience or hardship must offer reasonable
2 alternative times and dates for the examination.

3 "(6) At all stages of an examination or the
4 administrative review of the examination, and in any appeal to
5 the Tax Appeals Commission, a taxpayer is entitled to be
6 assisted or represented, at his or her own expense, by an
7 authorized representative. ~~The department shall prescribe a~~
8 ~~form by which the~~ A taxpayer may designate execute a power of
9 attorney, including by executing such form prescribed by the
10 department, designating any individual or individuals as his
11 or her authorized representative. ~~a person to represent him or~~
12 ~~her in the conduct of any proceedings, including collection~~
13 ~~proceedings, resulting from actions of the department.~~ In the
14 absence of this ~~form~~ power of attorney, the department or the
15 Tax Appeals Commission may accept such other evidence that a
16 person is the authorized representative of a taxpayer as it
17 considers appropriate. This provision shall not, however, be
18 construed as authorizing the practice of law before the
19 department, the Tax Appeals Commission, or any court in this
20 state by a person who is not a licensed attorney.

21 "(7) A taxpayer shall be allowed to make an audio
22 recording of any in-person interview with any officer or
23 employee of the department relating to any examination or
24 investigation by the department, provided, however, the
25 taxpayer must give reasonable advance notice to the department
26 of his or her intent to record and the recording shall be at
27 the taxpayer's own expense and with the taxpayer's own

1 equipment. The department shall also be allowed to record any
2 interview if the taxpayer is recording the interview, or if
3 the department gives the taxpayer reasonable advance notice of
4 its intent to record the interview. The department shall
5 provide the taxpayer with a copy of the recording, but only if
6 the taxpayer provides reimbursement for the cost of the
7 transcript and reproduction of the copy. The cost shall be
8 reasonable as prescribed by regulations issued by the
9 department.

10 "(8) This section shall not apply to criminal
11 investigations or investigations relating to the integrity of
12 any officer or employee of the department.

13 "(b) Department responsibilities generally.

14 "(1) The commissioner shall appoint a Taxpayer
15 Advocate from among the employees of the department. This
16 officer shall receive and review inquiries or complaints
17 concerning matters that have been pending before the
18 department for an unreasonable length of time, or matters
19 where the taxpayer has been unable to obtain a reasonable
20 response after several attempts to communicate with the
21 department employee assigned to the taxpayer's case, or his or
22 her immediate superiors. In addition, this officer shall
23 review and have the authority to waive a penalty for
24 reasonable cause as provided in subsection (h) of Section
25 40-2A-11, shall promptly review inquiries concerning release
26 of property levied upon, the erroneous filing of liens, the
27 failure to release a lien for good cause, other matters

1 complained of by a taxpayer or other affected party, or
2 matters referred to him or her by a judge of the Tax Appeals
3 Commission. The review process shall include consultation with
4 the taxpayer or his or her authorized representative, and the
5 self-administered county or municipality, if applicable,
6 regarding the background for the inquiry, complaint, or
7 request for waiver of penalty or other relief sought. The
8 Taxpayer Advocate shall have no authority nor issue any ruling
9 with regard to any taxes collected by or on behalf of a
10 self-administered county or municipality.

11 "a. The Taxpayer Advocate shall, subject to the
12 approval of the commissioner or the assistant commissioner,
13 issue taxpayer assistance orders in the form and manner
14 prescribed herein and by department regulations.

15 "b. Notwithstanding any statute of limitation or
16 other provision in this title, a taxpayer assistance order may
17 declare that any tax, including a final assessment, was
18 erroneously assessed or reported and is not a liability due
19 the state, or that a petition for refund was erroneously
20 denied by the department.

21 "c. A taxpayer assistance order shall grant relief
22 as deemed appropriate, including the voiding of any
23 erroneously issued final assessment for a tax which was not a
24 debt due the state, granting of any refund due the taxpayer,
25 or abating an assessment of interest that has accrued because
26 of undue delay by department personnel.

1 "d. At the request of the Tax Appeals Commission,
2 the taxpayer advocate shall review a final order issued by the
3 Tax Appeals Commission that was not appealed pursuant to
4 Section 40-2B-13, if there is newly discovered evidence which
5 by due diligence could not have been discovered in time to
6 file an application for rehearing pursuant to Section
7 40-2B-9(i), and may grant such relief as the taxpayer advocate
8 deems appropriate.

9 "d.e. All taxpayer assistance orders shall be dated
10 and signed by the Taxpayer Advocate and approved either by the
11 commissioner or the assistant commissioner, and shall state
12 the underlying facts, the reasons for granting relief, and the
13 relief granted. Any taxpayer assistance order may, for good
14 cause, be modified or rescinded in writing by the Taxpayer
15 Advocate and either the commissioner or ~~the~~ assistant
16 commissioner.

17 "e.f. The Taxpayer Advocate shall have full access
18 to department personnel, books, and records subject, however,
19 to the confidentiality restrictions imposed by this chapter.

20 "f.g. Taxpayer assistance orders shall not be
21 subject to the confidentiality provisions of this title, and
22 shall be maintained by the secretary of the department and
23 shall be open to review upon written request. The Taxpayer
24 Advocate shall have no authority nor issue any ruling with
25 regard to any taxes collected by or on behalf of a
26 self-administered county or municipality.

1 "g.h. The commissioner shall make an annual report
2 to the Legislature of all taxpayer assistance orders approved
3 in accordance with the provisions of this section and Sections
4 40-2A-2 and 40-2A-3. Such report shall contain the total
5 amount of relief granted and the types of taxes for which
6 relief was granted.

7 "(2) The department shall maintain a continuing
8 education program to train employees of the department and to
9 provide them with a current knowledge of state and applicable
10 federal tax laws.

11 "(3) In addition to any other information provided
12 by law, the commissioner shall include in the department's
13 annual report information about the number or kind of audits
14 or assessments conducted in the year covered by the report.

15 "(4) The department shall not use the amounts of
16 taxes assessed by an employee of the department as:

17 "a. The basis of a production quota system for
18 employees; or

19 "b. The basis for evaluating an employee's
20 performance.

21 "(5) The department shall establish procedures for
22 monitoring the performance of department employees which may
23 include the use of evaluations obtained from taxpayers.

24 "(6) INSTALLMENT PAYMENTS.

25 "a. The commissioner is authorized to enter into
26 written agreements to allow any taxpayer to pay any tax in
27 installment payments if the commissioner determines that such

1 an agreement will facilitate collection of ~~such~~ the tax.
2 Notwithstanding the preceding sentence, such agreements shall
3 be entered into only regarding a tax ~~that has been finally~~
4 ~~assessed by the department and not appealed~~ liability
5 resulting from a final assessment from which an appeal can no
6 longer be taken, unless the right to appeal is waived by the
7 taxpayer in writing, and such agreements shall not extend for
8 a period exceeding ~~twelve~~ 12 months, provided, that any such
9 agreement may be renewed at the discretion of the commissioner
10 for succeeding periods not to exceed ~~twelve~~ 12 months. The
11 commissioner shall only be authorized to enter such an
12 agreement with regard to a tax administered or collected by
13 the department.

14 "b. The commissioner may terminate, alter, or modify
15 any agreement entered into hereunder if:

16 "1. Information provided by the taxpayer to the
17 commissioner prior to the date of such agreement was
18 inaccurate or incomplete;

19 "2. The taxpayer fails to pay any installment at the
20 time such installment payment is due under such agreement;

21 "3. The taxpayer fails to pay any other tax
22 liability due the department at the time such liability is
23 due, unless the taxpayer has appealed such other liability
24 pursuant to the terms of this chapter;

25 "4. The financial condition of the taxpayer has
26 significantly changed;

1 "5. The taxpayer fails to provide a financial
2 condition update as requested by the commissioner; or

3 "6. The commissioner believes that collection of any
4 tax to which an agreement under this provision relates is in
5 jeopardy.

6 "c. The commissioner shall have sole authority or
7 discretion to enter into or amend, modify, or terminate any
8 installment payment agreement provided for herein. The
9 commissioner shall promulgate regulations necessary for the
10 implementation of this provision.

11 "d. Any self-administered county or municipality or
12 any private examining or collecting firm shall have the same
13 authority as provided to the commissioner by this subdivision
14 relating to installment payments with respect to taxes
15 administered or collected by the self-administered county, or
16 municipality or the private examining or collecting firm.

17 "(c) Department failure to comply with this section.
18 The failure of the department to comply with any provision of
19 this section shall not prohibit the department from assessing
20 any tax as provided in this chapter, nor excuse the taxpayer
21 from timely complying with any time limitations under this
22 chapter. However, if the department fails to substantially
23 comply with the provisions of this section, the commissioner
24 shall, upon application by the taxpayer or other good cause
25 shown, abate any penalties otherwise arising from the
26 examination or assessment.

1 "(d) Abatement of penalty. The department shall
2 abate any penalty attributable to erroneous written advice
3 furnished to a taxpayer by an employee of the department.
4 However, this section shall apply only if the department
5 employee provided the written advice in good faith while
6 acting in his or her official capacity, the written advice was
7 reasonably relied on by the taxpayer and was in response to a
8 specific written request of the taxpayer, and the penalty did
9 not result from the taxpayer's failure to provide adequate or
10 accurate information.

11 "§40-2A-5.

12 "(a) The commissioner may, in addition to all other
13 powers and authority now granted by law, issue "revenue
14 rulings" describing the substantive application of any law or
15 regulation administered by the department. Revenue rulings may
16 also govern procedures applicable to the department, and in
17 that event, shall be called "revenue procedures." Revenue
18 rulings shall be binding on the department and the state, its
19 political subdivisions, and taxing authorities only with
20 respect to the taxpayer making the request and only with
21 respect to the facts contained in the request. The department
22 attorney assigned to review the request for a revenue ruling
23 shall consult with the taxpayer or their authorized
24 representative, if requested by the taxpayer or their
25 authorized representative, prior to issuing the revenue
26 ruling. A revenue ruling shall constitute the department's
27 interpretation of the law or regulations as applied to the

1 facts contained in the request, but only pertaining to the
2 particular facts described in the request, and only to the
3 taxpayer making the request.

4 "(b) Revenue rulings may be issued only if no taxes
5 have accrued with respect to the transactions, events, or
6 facts contained in the request at the time of the issuance of
7 the ruling.

8 "(c) Revenue rulings may be revoked or modified by
9 the commissioner at any time; but any revocation or
10 modification shall not be effective retroactively unless one
11 of the following has occurred:

12 "(1) The person making the request misstated or
13 omitted facts material to the ruling.

14 "(2) The ruling was issued with respect to a matter
15 involving the computation or payment of a tax that was due and
16 payable at the time the ruling was requested.

17 "(3) The law applied by the commissioner in the
18 revenue ruling is changed in a manner to alter the
19 commissioner's conclusions in the ruling and the change in the
20 law is made effective as of the date of the ruling.

21 "The taxpayer may petition for a hearing with the
22 ~~Administrative Law Division~~ Tax Appeals Commission to
23 determine the propriety, under ~~subsections~~ subsection (a),
24 (b), or (c), of any retroactive revocation of a ruling.

25 "(d) All revenue rulings issued by the department
26 shall be published, maintained as a public record, and made
27 available by the department for public inspection and copying,

1 within a reasonable time following their issuance, at a
2 reasonable cost to be determined by the department. Prior to
3 publication, the department shall delete from the text of the
4 ruling all names, addresses, titles, figures, dates, and other
5 information which may identify the particular taxpayer who
6 requested the ruling. If a revenue ruling contains trade
7 secrets or other confidential information, the department
8 shall, upon written request of the taxpayer, delete that
9 information prior to publication.

10 "(e) Requests for revenue rulings shall be submitted
11 in writing to the secretary in the form and manner as
12 prescribed by department regulations, accompanied by a fee of
13 two hundred dollars (\$200). The commissioner shall either
14 issue or refuse to issue a ruling within 120 days after
15 receipt of the request unless the taxpayer consents to an
16 extension of time. If the commissioner refuses to issue a
17 ruling within the time prescribed, the two hundred dollar
18 (\$200) fee shall be refunded to the taxpayer. A request may be
19 withdrawn at any time prior to the issuance of the requested
20 ruling, in which case there shall be no refund of the two
21 hundred dollar (\$200) fee. A taxpayer may request an expedited
22 revenue ruling in the form and manner prescribed by department
23 regulations, accompanied by a fee of three thousand dollars
24 (\$3,000), which the commissioner shall issue within 30 days
25 after receipt of the request or shall promptly refund the
26 filing fee to the taxpayer.

1 "(f) Revenue rulings shall be issued in the name of
2 the commissioner.

3 "(g) Subject to the provisions of this section, the
4 commissioner may also issue a revenue ruling in response to a
5 written request by a governing body of a self-administered
6 county or municipality, or by a taxpayer, regarding the
7 substantive application of a sales, use, rental, or lodgings
8 tax levied by or on behalf of the self-administered
9 municipality or county; provided, however, that the
10 commissioner may not (i) issue a revenue ruling interpreting
11 any tax levied by or on behalf of a self-administered
12 municipality or county which levies a gross receipts tax in
13 the nature of a sales tax, as defined in Section 40-2A-3(8),
14 or (ii) issue a revenue ruling that would establish a rule of
15 nexus determining the locality to which sales and use taxes,
16 or gross receipts taxes in the nature of a sales tax as
17 defined by Section 40-2A-3(8), are due if the locality is a
18 self-administered county or municipality, as defined by
19 Section 40-2A-3(20). Revenue rulings shall be binding on a
20 self-administered county or municipality only with respect to
21 the specific taxpayer making the request and only with respect
22 to the specific facts contained in the request. Any ruling
23 shall, if the other requirements of this section are met, be
24 issued within 45 days of receipt of the request, and if the
25 requesting party is a self-administered municipal or county
26 governing body, the fee for issuance of the ruling shall be
27 waived. If the requesting party is a taxpayer, the department

1 shall, promptly upon receipt, forward a copy of the ruling
2 request to the appropriate municipal or county governing body
3 and shall consult with and accept written comments from
4 representatives of the municipality or county prior to
5 issuance of the ruling.

6 "§40-2A-7.

7 "(a) Maintenance of records; audit and subpoena
8 authority; authority to issue regulations.

9 "(1) In addition to all other recordkeeping
10 requirements otherwise set out in this title, taxpayers shall
11 keep and maintain an accurate and complete set of records,
12 books, and other information sufficient to allow the
13 department to determine the correct amount of value or correct
14 amount of any tax, license, permit, or fee administered by the
15 department, or other records or information as may be
16 necessary for the proper administration of any matters under
17 the jurisdiction of the department. The books, records, and
18 other information shall be open and available for inspection
19 by the department upon request at a reasonable time and
20 location.

21 "(2) The department may examine and audit the
22 records, books, or other relevant information maintained by
23 any taxpayer or other person for the purpose of computing and
24 determining the correct amount of value or correct amount of
25 any tax, license, or fee administered by the department, or
26 for any other purpose necessary for the proper administration
27 of any matter under the jurisdiction of the department.

1 "(3) A taxpayer, or any officer of a corporation or
2 association, or partner of a partnership, manager of a
3 manager-managed limited liability company, member of a
4 member-managed limited liability company, or fiduciary of a
5 trust, or other responsible individual of any entity under a
6 duty to maintain books and records pursuant to this subsection
7 who fails or refuses to maintain such records and books, or
8 permit inspection, shall be subject to contempt proceedings in
9 the circuit court of the judicial circuit in which the person
10 resides or has a principal place of business, and upon proof
11 of the fact to the court, may be punished for contempt as
12 provided in cases of contempt in circuit court.

13 "(4) The department may summon any witness to appear
14 and give testimony, and summon by subpoena duces tecum any
15 records, books, or other information of any kind relating to
16 any matter which the department has authority to administer.
17 The witness may be summoned by subpoena issued by the
18 secretary of the department, any circuit judge, any
19 magistrate, or any district judge, in the name of the
20 department, directed to any sheriff of Alabama and returnable
21 to the department. The subpoena may be served in like manner
22 as subpoenas issued out of any circuit court in Alabama, or
23 the subpoena may be served by an authorized employee of the
24 department or by either U.S. mail with delivery confirmation
25 or certified mail, return receipt requested. A fee shall be
26 paid to banking institutions, other similar entities, or any
27 other person except the taxpayer, for copying, searching for,

1 reproducing, and transporting any records, books, papers, or
2 other documents requested or subpoenaed by the department and
3 to persons who are required to appear as a witness equal to
4 the fee authorized to be paid by the Internal Revenue Service
5 for similar services or appearances pursuant to ~~Section 7610~~
6 ~~of the Internal Revenue Code of 1986~~ 26 U.S.C. § 7610, as
7 amended from time to time. If any witness has been subpoenaed
8 to appear and testify or appear and produce records, books, or
9 other information, and fails or refuses to appear or testify
10 or to produce the books, records, or other information, that
11 witness shall be subject to contempt proceedings in the
12 circuit court of the judicial circuit in which the witness
13 resides, and upon proof of the fact to a circuit court may be
14 punished for contempt as is provided in cases of contempt in
15 circuit court. The circuit court shall also have jurisdiction
16 to hear, and if appropriate, to grant a motion to quash the
17 subpoena. This subdivision shall not apply to any appeal
18 pending before the Tax Appeals Commission.

19 "(5) The department may issue forms and make
20 reasonable regulations concerning any matter administered by
21 the department. Regulations promulgated by the department
22 shall be issued in accordance with the procedures set forth in
23 the Alabama Administrative Procedure Act, Chapter 22 of Title
24 41.

25 "(b) Procedures governing entry of preliminary and
26 final assessments; appeals therefrom.

1 "(1) ENTRY OF PRELIMINARY ASSESSMENT; FINAL
2 ASSESSMENT OF UNCONTESTED TAX; EXECUTION OF PRELIMINARY AND
3 FINAL ASSESSMENTS.

4 "a. If the department determines that the amount of
5 any tax as reported on a return is incorrect, or if no return
6 is filed, or if the department is required to determine value,
7 the department may calculate the correct tax or value based on
8 the most accurate and complete information reasonably
9 obtainable by the department. The department may thereafter
10 enter a preliminary assessment for the correct tax or value,
11 including any applicable penalty and interest.

12 "b. Where the amount of tax or value reported on a
13 return is undisputed by the department, or the taxpayer
14 consents in writing to the amount of any deficiency,
15 determination of value, or preliminary assessment in writing
16 as provided by regulation, the department may immediately
17 enter a final assessment for the amount of the tax or value,
18 plus applicable penalty and interest; provided, the department
19 may at any time enter a final jeopardy assessment pursuant to
20 Sections 40-17A-12, 40-29-90, and 40-29-91.

21 "c. All preliminary and final assessments issued by
22 the department shall be executed as provided by regulations
23 promulgated by the department.

24 "(2) TIME LIMITATION FOR ENTERING PRELIMINARY
25 ASSESSMENT. Any preliminary assessment shall be entered within
26 three years from the due date of the return, or three years
27 from the date the return is filed with the department,

1 whichever is later, or if no return is required to be filed,
2 within three years of the due date of the tax, except as
3 follows:

4 "a. A preliminary assessment may be entered at any
5 time if no return is filed as required, or if a false or
6 fraudulent return is filed with the intent to evade tax.

7 "b. A preliminary assessment may be entered within
8 six years from the due date of the return or six years from
9 the date the return is filed with the department, whichever is
10 later, if the taxpayer omits from the taxable base an amount
11 properly includable therein which is in excess of 25 percent
12 of the amount of the taxable base stated in the return.

13 "For purposes of this paragraph:

14 "1. The term taxable base means the gross income,
15 gross proceeds from sales, gross receipts, net worth ~~capital~~
16 ~~employed~~, or other amounts on which the tax ~~paid with~~ reported
17 on the return is computed measured; provided, that for a
18 corporation subject to the income tax imposed by Chapter 18 of
19 this title, the term "taxable base" means the corporation's
20 federal gross income multiplied by its Alabama apportionment
21 factor for the same tax year, calculated pursuant to Chapter
22 27 of this title; and

23 "2. In determining the amount omitted from the
24 taxable base, there shall not be taken into account any amount
25 which is omitted from the taxable base stated in the return if
26 the amount is disclosed in the return, or in a statement
27 attached to the return, in a manner adequate to apprise the

1 department of the nature and amount of the item. With respect
2 to a corporation subject to the income tax imposed by Chapter
3 18 of this title, an amount omitted from the taxable base
4 shall not include any amounts for which the taxpayer has
5 substantial authority supporting its position. For purposes of
6 this subparagraph, the term "substantial authority" shall be
7 defined by reference to 26 U.S.C. §6662, as in effect from
8 time to time, as may be modified by department rule to conform
9 to Alabama tax law.

10 "c. A preliminary assessment entered pursuant to
11 Sections 40-29-72 and 40-29-73, may be entered within five
12 years from the due date of the return on which the underlying
13 tax is required to be reported or within five years of the
14 date the return is filed, whichever is later.

15 "d.1. In the case of income received during the
16 lifetime of a decedent, or by his or her estate during the
17 period of administration, the preliminary assessment of any
18 income tax shall be entered within 18 months after written
19 request therefor, filed after the return is made, by the
20 executor, administrator, or other fiduciary representing the
21 estate of the decedent, but not after the expiration of three
22 years from the due date of the return or three years from the
23 date the return is filed with the department, whichever is
24 later.

25 "2. In the case of income received by a corporation
26 contemplating dissolution, a preliminary assessment of any
27 income tax shall be entered within 18 months after written

1 request, by the corporation, filed after the return is made,
2 but not after the expiration of three years from the due date
3 of the return or three years from the date the return is filed
4 with the department, whichever is later. This subparagraph
5 shall not apply to any corporation unless dissolution is
6 completed within 18 months of the date of the written notice.

7 "e. If a taxpayer has made the election provided in
8 subsection (d) ~~or (e)~~ of Section 40-18-8, a preliminary
9 assessment based on the gain realized as a result of the
10 involuntary conversion ~~[in the case of subsection (d) of~~
11 ~~Section 40-18-8]~~ or a rollover of gain on the sale of a
12 personal residence ~~[as provided in subsection (e) of Section~~
13 ~~40-18-8]~~ may be entered within three years from the date the
14 taxpayer notified the department of the replacement of the
15 property in accordance with subsection (d) ~~or (e)~~ of Section
16 40-18-8, ~~as the case may be,~~ or of his or her intention not to
17 replace the property.

18 "f. ~~If a taxpayer has validly elected to have the~~
19 ~~provisions of subdivision (a) (7) of Section 40-18-6 and~~
20 ~~subsection (l) of Section 40-18-8 apply to an acquisition of~~
21 ~~stock before January 1, 1985, any liability of the taxpayer~~
22 ~~under this title, solely from amendment of its returns to be~~
23 ~~consistent with that election may be assessed at any time~~
24 ~~within five years from the date on which the taxpayer filed~~
25 ~~the amended returns with the department.~~

26 "g.1.f. Reporting federal audit changes; time
27 limitations for assessments. When the Internal Revenue Service

1 changes the amount of federal income tax or federal estate tax
2 ~~in any manner owed by the taxpayer,~~ and the change results in
3 ~~an increase in~~ additional income tax or estate tax owed under
4 this title, ~~the department may, at any time~~ the taxpayer shall
5 be required to file an amended return with the department
6 within one year 180 days after the department ~~is notified or~~
7 ~~otherwise learns~~ date that the change ~~has become~~ becomes
8 ~~final,~~ enter a preliminary assessment for and pay the
9 additional tax and interest due with the amended return. For
10 purposes of this subdivision, an amended return includes an
11 amended income or estate tax return on a form prescribed by
12 the department, along with reasonably detailed documentation
13 to verify the taxpayer's computation of the tax due and
14 identification of the federal changes. The department shall
15 prescribe a form or schedule that a taxpayer, or an affiliated
16 group of taxpayers, may file electronically that complies with
17 the amended return requirement of this subdivision. The
18 department shall be allowed to ~~assess the tax within the time~~
19 ~~period otherwise allowed by this section.~~ enter a preliminary
20 assessment for any additional tax due as a result of this
21 subdivision by the later of the following periods:

22 "1. Within the time period otherwise allowed by this
23 section.

24 "2. If the taxpayer files an amended return as
25 prescribed by and within the time specified in this
26 subdivision, within one year following the date the amended
27 return, as prescribed in this subdivision, was filed.

1 "3. If the taxpayer fails to file an amended return
2 as prescribed by and within the time specified in this
3 subdivision, within one year following the date the taxpayer
4 actually files such amended return with the department.

5 "4. If the taxpayer failed to file an amended return
6 as prescribed by and within the time specified in this
7 subdivision, within one year following the date when the
8 department is notified or otherwise learns that the federal
9 change has become final, provided that the taxpayer has not
10 filed an amended return to report the federal changes prior to
11 the department's receipt of such notification.

12 "Any tax assessed within the appropriate additional
13 one year time period allowed by this subdivision shall be
14 limited to those items changed on the federal income tax
15 return or federal estate tax return that affect the income tax
16 liability or the estate tax liability imposed by this title.

17 ~~"2. When a federal income tax return or federal~~
18 ~~estate tax return is changed in any manner after it has been~~
19 ~~filed with the Internal Revenue Service, other than by an~~
20 ~~amended return, and the change results in an overpayment of~~
21 ~~taxes imposed by this title, a petition for refund of the~~
22 ~~overpayment may be filed within the later of one year after~~
23 ~~the federal changes become final, or within the time allowed~~
24 ~~for the filing of a petition for refund as provided in this~~
25 ~~chapter. The refund shall be limited to those items changed on~~
26 ~~the federal income tax return or federal estate tax return~~

1 ~~that affect the income tax liability or estate tax liability~~
2 ~~imposed by this title.~~

3 "3.5. For purposes of this subdivision and
4 subsection (c) (2)c., the date that a federal change becomes
5 final is the date on which the taxpayer and the Internal
6 Revenue Service formally agree to the changes, or the date ~~of~~
7 on which any administrative or judicial order, judgment, or
8 decree ~~from which no further appeal was or may be taken~~ can no
9 longer be appealed due to the lapse of time.

10 "h.g. The running of the period of limitations
11 provided herein for entering a preliminary assessment shall be
12 suspended for the period that:

13 "1. The taxpayer or the assets of the taxpayer are
14 involved in a case under Title 11 of the United States Code,
15 Bankruptcy, and for a period of six months thereafter; or

16 "2. The assets of the taxpayer are in the control or
17 custody of a court in any proceeding, and for a period of six
18 months thereafter.

19 "i.h. The department and the taxpayer may, prior to
20 the expiration of the period for entering a preliminary
21 assessment or the filing of a petition for refund, agree in
22 writing to extend the time provided for entering the
23 assessment or filing the petition in this chapter. The tax may
24 be assessed, or the petition for refund may be filed, at any
25 time prior to the expiration of the period agreed upon. The
26 period agreed upon may be extended by subsequent agreements in

1 writing made before the expiration of the period previously
2 agreed upon.

3 "j.i. Additional tax may be assessed by the
4 department within any applicable period allowed above, even
5 though a preliminary or final assessment has been previously
6 entered by the department against the same taxpayer for the
7 same or a portion of the same tax period. No taxpayer,
8 however, shall be subject to unnecessary examination or
9 investigation, and only one inspection of a taxpayer's books
10 and records relating to each type of tax administered by the
11 department shall be made for each taxable year, unless the
12 taxpayer requests otherwise or unless the commissioner after
13 investigation, notifies the taxpayer in writing that an
14 additional inspection is necessary. The commissioner shall
15 promulgate regulations consistent with those followed by the
16 Internal Revenue Service with respect to second inspection of
17 a taxpayer's books and records.

18 "j. The three-year statute of limitations provided
19 by this subdivision for entering a preliminary assessment
20 shall be extended by 60 days for the benefit of a
21 self-administered county or municipality, in cases where the
22 department has audited a taxpayer and additional sales, use,
23 rental, or lodgings tax was found to be due, and the taxpayer
24 likewise owes tax to the self-administered county or
25 municipality for the same tax period or periods.

26 "(3) SERVICE OF PRELIMINARY ASSESSMENT UPON
27 TAXPAYER. The preliminary assessment entered by the

1 department, or a copy thereof, shall be promptly mailed by the
2 department to the taxpayer's last known address by either
3 first class U.S. mail or certified mail with return receipt
4 requested, but at the option of the department, the
5 preliminary assessment may be delivered to the taxpayer by
6 personal delivery or by U.S. mail with delivery confirmation.

7 "(4) PROCEDURE FOR REVIEW OF DISPUTED PRELIMINARY
8 ASSESSMENTS; ENTRY AND NOTICE OF FINAL ASSESSMENT.

9 "a. If a taxpayer disagrees with a preliminary
10 assessment as entered by the department, the taxpayer may file
11 a written petition for review with the department within ~~30~~ 60
12 days from the date of entry of the preliminary assessment
13 setting out the specific objections to the preliminary
14 assessment. If a petition for review is timely filed, or if
15 the department otherwise deems it necessary, the department
16 shall schedule a conference with the taxpayer for the purpose
17 of allowing the taxpayer and the department to present their
18 respective positions, discuss any omissions or errors, and to
19 attempt to agree upon any changes or modifications to their
20 respective positions.

21 "b. If a written petition for review:

22 "1. Is not timely filed, or

23 "2. Is properly filed, and upon further review the
24 department determines the preliminary assessment is due to be
25 upheld in whole or in part, the department may make the
26 assessment final in the amount of tax due as computed by the

1 department, with applicable interest and penalty computed to
2 the date of entry of the final assessment.

3 "c. If a preliminary assessment is not made final by
4 the department within three years from the date of entry, the
5 taxpayer may appeal the preliminary assessment to the Tax
6 Appeals Commission or to the appropriate circuit court as
7 provided by subsection (b) (5) for an appeal of a final
8 assessment. Any preliminary assessment that is outstanding as
9 of October 1, 2012, and that was entered five or more years
10 prior to that date, is void unless the preliminary assessment
11 is made final or the department and the taxpayer agree in
12 writing to extend the time period for entering a final
13 assessment prior to October 1, 2012.

14 "c.d. The final assessment entered by the
15 department, or a copy thereof, shall promptly upon entry be
16 mailed by the department to the taxpayer's last known address
17 (i) by either first class U.S. mail or certified U.S. mail
18 with return receipt requested in the case of assessments of
19 tax of ~~five hundred dollars (\$500)~~ one thousand dollars
20 (\$1,000) or less or (ii) by certified mail with return receipt
21 requested in the case of assessments of tax of more than ~~five~~
22 ~~hundred dollars (\$500)~~ one thousand dollars (\$1,000). In
23 either case and at the option of the department, the final
24 assessment, or a copy thereof, may instead be delivered to the
25 taxpayer by personal delivery or by U.S. mail with delivery
26 confirmation.

27 "(5) PROCEDURE FOR APPEAL FROM FINAL ASSESSMENT.

1 "a. A taxpayer may appeal to the Tax Appeals
2 Commission from any final assessment entered by the department
3 by filing a notice of appeal with the ~~Administrative Law~~
4 ~~Division~~ Tax Appeals Commission within ~~30~~ 60 days from the
5 date of entry of the final assessment, and the appeal, if
6 timely filed, shall proceed as ~~herein~~ provided in Chapter 2B
7 for appeals to the ~~Administrative Law Division~~ Tax Appeals
8 Commission.

9 "b.1. In lieu of the appeal under paragraph a., at
10 the option of the taxpayer, the taxpayer may appeal from any
11 final assessment entered by the department to the Circuit
12 Court of Montgomery County, Alabama, or to the circuit court
13 of the county in which the taxpayer resides or has a principal
14 place of business in Alabama, as appropriate, by filing a
15 notice of appeal within ~~30~~ 60 days from the date of entry of
16 the final assessment with both the secretary of the department
17 and the clerk of the circuit court in which the appeal is
18 filed.

19 "2. If the appeal is to circuit court, the taxpayer,
20 also within the ~~30-day~~ 60-day period allowed for appeal, shall
21 do one of the following:

22 "(i) Pay the tax, interest, and any penalty shown on
23 the final assessment.

24 "(ii) File a supersedeas bond with the court ~~for~~ in
25 an amount equal to 125 percent of the amount of the tax,
26 interest, and any penalty shown on the final assessment. The
27 supersedeas bond shall be executed by a surety company

1 licensed and authorized to do business in Alabama and shall be
2 conditioned to pay the amount of tax, interest, and any
3 penalties shown on the final assessment, plus applicable
4 interest and any court costs relating to the appeal, payable
5 to the department, or the self-administered county or
6 municipality, if applicable.

7 "(iii) File an irrevocable letter of credit with the
8 circuit court in an amount equal to 125 percent of the amount
9 of the tax, interest, and any penalty shown on the final
10 assessment. The irrevocable letter of credit shall be issued
11 by a financial institution designated as a qualified public
12 depository by the Board of Directors of the Security for
13 Alabama Funds Enhancement (SAFE) Program pursuant to Chapter
14 14A, Title 41. ~~The State of Alabama~~ department, or the
15 self-administered county or municipality, if applicable, shall
16 be named the beneficiary of the irrevocable letter of credit.
17 The irrevocable letter of credit shall be conditioned to pay
18 the assessment plus applicable interest and any court costs
19 relating to the appeal. The taxpayer may not issue an
20 irrevocable letter of credit as to a final assessment entered
21 against the same taxpayer.

22 "(iv) File a pledge or collateral assignment of
23 securities with the circuit court that constitute eligible
24 collateral under Chapter 14A, Title 41, in an amount equal to
25 200 percent of the amount of the tax, interest, and penalty
26 shown on the final assessment. The pledge or collateral
27 assignment shall be in favor of the department, or the

1 self-administered county or municipality, if applicable, and
2 conditioned to pay the assessment plus applicable interest and
3 any court costs relating to the appeal.

4 "(v) Show to the satisfaction of the clerk of the
5 circuit court to which the appeal is taken that the taxpayer
6 has a net worth, on the basis of fair market value, of one
7 hundred thousand dollars (\$100,000) or less, including his or
8 her homestead.

9 "3. A taxpayer may appeal a final assessment to
10 either the ~~Administrative Law Division~~ Tax Appeals Commission
11 or to circuit court as provided herein, even though the
12 taxpayer has paid the tax in issue prior to taking the appeal.

13 "c.1. The filing of the notice of appeal with the
14 ~~Administrative Law Division~~ Tax Appeals Commission or, in the
15 case of appeals to the circuit court, the filing of the notice
16 of appeal with both the secretary of the department and the
17 clerk of the circuit court in which the appeal is filed and
18 also the payment of the assessment in full ~~and applicable~~
19 ~~interest~~ or the filing of a supersedeas bond, an irrevocable
20 letter of credit, or a pledge or collateral assignment of
21 securities as provided herein, are jurisdictional. Except as
22 set forth in subparagraph 2., if such prerequisites are not
23 satisfied within the time provided for appeal, the appeal
24 shall be dismissed for lack of jurisdiction.

25 "2. Notwithstanding subparagraph 1., should the
26 circuit court determine that the taxpayer has not satisfied
27 the requirements of subparagraph b.2., the circuit court shall

1 order that the taxpayer satisfy such requirements. The
2 taxpayer may satisfy such requirements at any time within 30
3 days after service of the court order. No order of dismissal
4 for lack of jurisdiction shall be entered within 30 days after
5 service of the court order, and no order of dismissal shall
6 thereafter be entered if such requirement is satisfied within
7 such 30-day period.

8 "3. On appeal to the circuit court or to the
9 ~~Administrative Law Division~~ Tax Appeals Commission, the final
10 assessment shall be prima facie correct, and the burden of
11 proof shall be on the taxpayer to prove the assessment is
12 incorrect.

13 "d.1. The ~~Administrative Law Division~~ Tax Appeals
14 Commission, circuit court, or the appellate court on appeal
15 may increase or decrease the assessment to reflect the correct
16 amount due.

17 "2. If a final assessment is reduced on appeal, any
18 overpayment of tax paid by the taxpayer shall immediately be
19 refunded to the taxpayer by the state, county, municipality,
20 or other entity to which the overpayment was distributed.

21 "3. No court shall have the power to enjoin the
22 collection of any taxes due on an assessment so appealed or to
23 suspend the payment thereof.

24 "(6) 30-DAY APPEAL PERIODS FOR INDIVIDUALS WHO FAIL
25 TO FILE AN ALABAMA INCOME TAX RETURN. Notwithstanding the
26 60-day appeal periods for preliminary assessments and final
27 assessments provided by subdivisions (4) and (5), in the case

1 of an individual who is subject to Alabama income tax and who
2 fails to file timely the return required by Chapter 18 of this
3 title for a particular tax year, if the department enters a
4 preliminary assessment against the taxpayer based on
5 information received from the Internal Revenue Service with
6 respect to that same tax year, the taxpayer shall have only 30
7 days to file a petition for review pursuant to subdivision
8 (4), and if the preliminary assessment is made final, the
9 taxpayer shall have only 30 days to file a notice of appeal
10 pursuant to subdivision (5).

11 "(c) Procedure governing petitions for refund;
12 appeals therefrom.

13 "(1) PETITION FOR REFUND ALLOWED, GENERALLY. Any
14 taxpayer may file a petition for refund with the department
15 for any overpayment of tax or other amount erroneously paid to
16 the department or concerning any refund which the department
17 is required to administer. If a final assessment for the tax
18 has been entered by the department, a petition for refund of
19 all or a portion of the tax may be filed only if the final
20 assessment plus applicable interest has been paid in full
21 prior to or with the filing of the petition for refund. The
22 department may also issue automatic refunds pursuant to
23 Section 40-29-71. In the case of a petition for refund of
24 sales or use taxes pursuant to Chapter 23, public utilities
25 taxes pursuant to Chapter 21, and any transient occupancy tax
26 pursuant to Chapter 26, the petition shall be filed jointly by
27 the taxpayer who collected and paid over the tax to the

1 department and the consumer/purchaser who paid the tax to the
2 taxpayer. A direct petition may be filed by the taxpayer if
3 the taxpayer never collected the tax from the
4 consumer/purchaser, or if the tax has been credited or repaid
5 to the consumer/purchaser by the taxpayer.

6 "(2) TIME LIMITATION FOR FILING PETITION FOR REFUND;
7 AUTOMATIC REFUND.

8 "a. Generally. A petition for refund shall be filed
9 with the department or an automatic refund issued pursuant to
10 Section 40-29-71, or a credit allowed, within (i) three years
11 from the date that the return was filed, or (ii) two years
12 from the date of payment of the tax, ~~whichever is later,~~
13 period expires last or, if no return was timely filed, two
14 years from the date of payment of the tax if an individual
15 income tax return required by Section 40-18-27 is not timely
16 filed for a particular year, a petition for refund of
17 individual income tax paid by withholding or estimated payment
18 with respect to that year shall be filed, or a credit allowed,
19 within three years from the original due date of the return.
20 ~~For purposes of this paragraph, taxes paid through withholding~~
21 ~~or by estimated payment shall be deemed paid on the original~~
22 ~~due date of the return.~~

23 "b. Net operating loss carryback. In lieu of the
24 periods provided in paragraph a., in the case of a net
25 operating loss carryback, the period for filing a petition for
26 refund, the department making an automatic refund or allowing

1 a credit shall be the period prescribed in 26 U.S.C. ~~Section~~
2 §6511(d)(2) for the claiming of a credit or refund.

3 "c. Federal audit changes. When a federal income tax
4 return or federal estate tax return is changed after it has
5 been filed with the Internal Revenue Service, other than by an
6 amended return, and the change results in an overpayment of
7 income tax or estate tax imposed by this title, a petition for
8 refund of the overpayment must be filed within the later of
9 one year after the federal changes become final or the time
10 otherwise allowed for the filing of a petition for refund as
11 provided in this chapter. The refund shall be limited to the
12 tax overpaid as a result of those items changed on the federal
13 income tax return or federal estate tax return that affect the
14 income tax liability or estate tax liability imposed by this
15 title. For purposes of this subdivision, the date that a
16 federal change becomes final shall be determined as provided
17 in Section 40-2A-7(b)(2)f.5.

18 "(3) DEPARTMENT REQUIRED TO GRANT OR DENY REFUNDS;
19 TIME LIMITATIONS. The department shall either grant or deny a
20 petition for refund within six months from the date the
21 petition is filed, unless the period is extended by written
22 agreement of the taxpayer and the department. The taxpayer and
23 his or her authorized representative, if applicable, shall be
24 notified of the department's decision concerning the petition
25 for refund by either first class ~~United States~~ U.S. mail, or
26 by certified U.S. mail, return receipt requested, or by U.S.
27 mail with delivery confirmation, sent to the taxpayer's or the

1 authorized representative's last known address. If the
2 department fails to grant a refund within the time provided
3 herein, the petition for refund shall be deemed to be denied.

4 "(4) PROCEDURES IF REFUNDS GRANTED; CREDIT OF
5 REFUND; PAYMENT OF OTHER TAXES; PAYMENT OF INTEREST. If a
6 petition is granted in whole or in part, or the department ~~or,~~
7 the ~~Administrative Law Division~~ Tax Appeals Commission, or a
8 court otherwise determines that a refund is due, the
9 overpayment shall be refunded to the taxpayer by the state,
10 county, municipality, or other entity to which the overpayment
11 was distributed. If the department determines that a refund is
12 due, the amount of the overpayment plus accrued interest may
13 first be credited by the department against any outstanding
14 ~~final tax liabilities due and owing by the taxpayer to the~~
15 ~~department~~ tax due as reported by a taxpayer on a return, any
16 outstanding tax liability resulting from a final assessment
17 from which an appeal can no longer be taken, or any
18 outstanding tax liability that has been affirmed on appeal by
19 the Tax Appeals Commission or by a circuit or appellate court
20 in Alabama and from which no further appeal can be taken, and
21 the balance of any overpayment shall, subject to the setoff
22 provisions of Article 3 of Chapter 18, be refunded to the
23 taxpayer. If any refund or part thereof is credited to any
24 other tax by the department, the department shall provide a
25 written detailed statement to the taxpayer showing the amount
26 of overpayment, the amount credited for payment to other
27 taxes, and the amount refunded.

1 "(5) PROCEDURES IF REFUND DENIED; APPEAL.

2 "a. A taxpayer may appeal from the denial in whole
3 or in part of a petition for refund by filing a notice of
4 appeal with the ~~Administrative Law Division~~ Tax Appeals
5 Commission within two years from the date the petition is
6 denied, ~~and the appeal, if.~~ If timely filed, the appeal shall
7 proceed as ~~hereinafter~~ provided in Chapter 2B for appeals to
8 the ~~Administrative Law Division~~ Tax Appeals Commission.

9 "b. In lieu of appealing to the ~~Administrative Law~~
10 ~~Division~~ Tax Appeals Commission, the taxpayer may appeal from
11 the denial in whole or in part of a petition for refund by
12 filing a notice of appeal with the Circuit Court in Montgomery
13 County, Alabama, or the circuit court of the county in which
14 the taxpayer resides or has a principal place of business in
15 Alabama, as appropriate, by filing the notice of appeal within
16 two years from the date the petition is denied. The circuit
17 court shall hear the appeal according to its own rules and
18 procedures and shall determine the correct amount of refund
19 due, if any.

20 "c. If an appeal is not filed with the
21 ~~Administrative Law Division~~ Tax Appeals Commission or the
22 appropriate circuit court within two years of the date the
23 petition is denied, ~~then~~ the appeal shall be dismissed for
24 lack of jurisdiction.

25 "(d) The Department of Revenue shall revise existing
26 regulations or administrative guidance, or issue new

1 regulations or administrative guidance, as appropriate, in
2 conformance with this section.

3 "(e) ~~This~~ The amendments made to this section by Act
4 2007-504 shall apply to all appeals filed after June 15, 2007.
5 Notwithstanding the prior sentence, in any appeal to a circuit
6 court which ~~is~~ was pending on June 15, 2007, and in which a
7 supersedeas bond was filed pursuant to, and in compliance
8 with, the requirements of this section, for double the amount
9 of the tax, interest, and any penalty shown on the final
10 assessment, or for double the amount of the final order of the
11 administrative law judge, such bond may be reduced to 125
12 percent of such amount shown on the final assessment or in the
13 final order of the administrative law judge.

14 "§40-2A-8.

15 "(a) The department shall notify a taxpayer in
16 writing of any act or proposed act or refusal to act
17 concerning the denial or revocation of a license, permit, or
18 certificate of title concerning which the taxpayer has any
19 interest. The notice must be mailed by either first-class U.S.
20 mail or certified U.S. mail or U.S. mail with delivery
21 confirmation to the taxpayer's last known address, or to the
22 last known address of the taxpayer's authorized
23 representative, if applicable. Any taxpayer aggrieved by any
24 act or proposed act or refusal to act by the department shall
25 be entitled to file a notice of appeal from such act or
26 proposed act or refusal to act with the ~~administrative law~~
27 ~~division~~ Tax Appeals Commission. Such notice of appeal must be

1 filed within ~~30~~ 60 days of the date notice of such act or
2 refusal to act is mailed to the taxpayer, and such appeal, if
3 timely filed, shall proceed as herein provided for appeals to
4 the ~~administrative law division.~~ Tax Appeals Commission. Any
5 taxpayer aggrieved by any act, proposed act, or refusal to act
6 by the department, who is not issued written notice by the
7 department of his or her right to appeal, shall have 60 days
8 from actual notice of such act, proposed act, or refusal to
9 act in which to appeal to the Tax Appeals Commission. The
10 burden shall be on the taxpayer in such cases to prove that
11 the appeal was filed within 60 days of actual notice. If any
12 matter is timely appealed to the Tax Appeals Commission
13 pursuant to this section, the commission, in its discretion,
14 may remand or refer the matter to the department or the
15 department's Taxpayer Advocate for review before proceeding
16 with the appeal.

17 "(b) A taxpayer may elect to file a notice of appeal
18 with the Tax Appeals Commission regarding a notice of proposed
19 adjustment issued by the department affecting the taxpayer's
20 net operating loss deductions or carryovers for purposes of
21 the taxes imposed by Chapters 16 and 18 of this title. Such
22 notice of appeal shall be filed within the time period
23 prescribed in subsection (a), and the Tax Appeals Commission
24 shall have jurisdiction to determine the amount of the
25 taxpayer's net operating loss deductions or carryovers for the
26 tax periods in question.

1 "~~(b)~~(c) The department may proceed with the intended
2 action if no appeal is filed by the taxpayer with the
3 ~~administrative law division~~ Tax Appeals Commission within 30
4 ~~days of the mailing of the notice by the department to the~~
5 ~~taxpayer.~~ the time allowed under subsection (a). If a
6 designated agent has failed to provide the department with a
7 bond and any qualifying license as provided in Section
8 32-8-34, the revocation of designated agent status by the
9 department shall be effective immediately upon electronic
10 notice through the system the designated agent uses to process
11 applications for certificates of title or receipt of written
12 notice of revocation, whether by U.S. mail or hand delivery.
13 Otherwise, the revocation of a designated agent status shall
14 be effective after the time for appeal under this section has
15 expired. The revocation of any motor vehicle certificate of
16 title or license by the department shall not be final until
17 either the titled owner and lien holder, if any, consent to
18 the revocation or the time for filing an appeal to the Tax
19 Appeals Commission has expired. The department may obtain an
20 injunction in the appropriate circuit court at any time
21 enjoining a licensee or designated agent from continuing to
22 operate under a disputed license or designated agent
23 authority, if the continued operation may cause substantial
24 loss of revenue, would cause substantial harm to the state or
25 public, or for such other good reason as determined by the
26 circuit court. The department may suspend the designated
27 agent's access to process new applications for certificate of

1 title until such time as any outstanding title applications
2 not properly filed by the designated agent are properly filed
3 with the department.

4 ~~"(c)~~(d) This section shall not apply to the
5 procedures governing assessments and refunds which are
6 otherwise provided for by this chapter, or to
7 intradepartmental personnel actions or any matter which is the
8 subject of any action then pending in state or federal court,
9 or to the collection of any liability due the department.

10 ~~"(d)~~(e) A taxpayer may appeal any matter governed by
11 this section to the circuit court only after exhausting ~~his~~
12 the appeal rights provided under this section. Any appeal to
13 the circuit court must be from a final or other appealable
14 order issued by the ~~administrative law judge~~ Tax Appeals
15 Commission.

16 "§40-2A-11.

17 "(a) Failure to timely file ~~return~~ certain returns.
18 ~~If~~ Except as provided below, if a taxpayer fails to file any
19 return required to be filed with the department on or before
20 the date prescribed therefor, determined with regard to any
21 extension of time for filing, there shall be assessed as a
22 penalty the greater of an amount equal to 10 percent of any
23 ~~additional~~ the correct amount of tax required to be paid with
24 the return or fifty dollars (\$50). If the taxpayer is not
25 required to pay any additional tax due with the return, the
26 penalty imposed by this subsection shall not be assessed
27 unless the department has first provided 30 days' written

1 notice to the taxpayer, at the last known address of the
2 taxpayer, that the return has not been filed and the taxpayer
3 fails or refuses to file the delinquent return within that
4 time period. This subsection shall not apply to any individual
5 income tax return or amended return filed with the department
6 if the taxpayer claims thereon and is due a refund of income
7 tax.

8 "(b) Failure to timely pay tax.

9 "(1) If a taxpayer fails to pay to the department
10 the amount of tax shown as due on a return required to be
11 filed on or before the date prescribed for payment of the tax,
12 determined with regard to any extension of time for payment,
13 there shall be added as a penalty one percent of the net
14 amount of the tax due if the failure to pay is for not more
15 than one month, with an additional one percent for each
16 additional month or fraction thereof during which failure to
17 pay continues, not exceeding 25 percent in the aggregate. In
18 lieu of the penalty provided in the immediately preceding
19 sentence, for any tax for which a monthly or quarterly return
20 is required, or for which no return is required, the
21 department shall add a failure to timely pay penalty of 10
22 percent of the unpaid amount shown as tax due on the return or
23 the amount stated in the notice and demand.

24 "(2) If a taxpayer fails to pay to the department
25 any amount in respect of any tax required to be shown on any
26 return, which is not so shown, within 30 calendar days from
27 the date of the first written notice and demand therefore,

1 there shall be added as a penalty one percent of the net
2 amount of the tax due if the failure to pay is for not more
3 than one month, with an additional one percent for each
4 additional month or fraction thereof during which failure to
5 pay continues, not exceeding 25 percent in the aggregate. In
6 lieu of the penalty provided in the immediately preceding
7 sentence, for any tax for which a monthly or quarterly return
8 is required, or for which no return is required, the
9 department shall add a failure to timely pay penalty of 10
10 percent of the unpaid amount stated in the notice and demand
11 unless payment is received within 30 calendar days from the
12 date of the first written notice and demand.

13 "(3) This subsection shall not apply to any failure
14 to pay any estimated tax required to be paid by Sections
15 40-18-80 and 40-18-80.1.

16 "(c) Underpayment due to negligence. If any part of
17 any underpayment of tax is due to negligence or disregard of
18 rules or regulations, there shall be added to the tax an
19 amount equal to ~~five~~ 20 percent of that part of the tax
20 attributable to negligence or disregard of rules or
21 regulations.

22 "For purposes of this subsection, the term
23 "negligence" includes any failure to make a reasonable attempt
24 to comply with ~~Title 40~~ this title or other statutes
25 administered by the department, and the term "disregard"
26 includes any careless, reckless, or intentional disregard of
27 valid rules and regulations.

1 "(d) Underpayment due to fraud. If any part of any
2 underpayment of tax required to be shown on a return is due to
3 fraud, there shall be added to the tax an amount equal to ~~50~~
4 75 percent of that portion of the underpayment which is
5 attributable to fraud.

6 "For purposes of this section, the term "fraud"
7 shall have the same meaning as ascribed to the term under 26
8 U.S.C. ~~Section §6663~~, as in effect from time to time, except
9 that the reference therein to the secretary shall instead mean
10 the commissioner.

11 "(e) Frivolous return penalty. If a taxpayer files a
12 "frivolous return," as that term is used in 26 U.S.C. ~~Section~~
13 § 6702, that taxpayer may be liable for a penalty of up to ~~two~~
14 ~~hundred fifty dollars (\$250)~~ one thousand dollars (\$1,000).

15 "(f) Frivolous appeal penalty. If any appeal to the
16 ~~administrative law division~~ Tax Appeals Commission or circuit
17 court is determined to be frivolous or primarily for the
18 purpose of delay or to impede collection of any tax, a penalty
19 of ~~two hundred fifty dollars (\$250)~~ one thousand dollars
20 (\$1,000) or, at the discretion of the Tax Appeals Commission
21 or circuit judge, up to 25 percent of the tax in question,
22 whichever is greater, shall be assessed in addition to any tax
23 due.

24 "(g) Failure to file partnership or Alabama S
25 corporation returns. If a pass-through entity, as defined in
26 Section 40-18-24.2, or an Alabama S corporation, as defined in
27 Section 40-18-160(b)(1), fails to file the applicable

1 information return required by Section 40-18-28 or 40-18-39
2 for any taxable year within the time prescribed therefor, the
3 pass-through entity or corporation shall be liable for a
4 penalty equal to the product of fifty dollars (\$50) multiplied
5 by the number of members of the pass-through entity or
6 shareholders of the Alabama S corporation, whichever is
7 applicable, for each month, or fraction thereof, during which
8 such failure continues, but not to exceed 12 months.

9 "(h) Failure to pay by electronic funds transfer. If
10 a taxpayer fails to timely pay a tax by means of electronic
11 funds transfer as required by Section 41-1-20 there may be
12 assessed a penalty equal to the greater of one hundred dollars
13 (\$100) or five percent of the required payment.

14 "(g)(i) Penalties not exclusive. The penalties
15 provided in this section for failure to timely file a return,
16 failure to timely pay tax, filing a frivolous return, filing a
17 frivolous appeal, or underpayment of tax due to negligence may
18 be asserted against the same taxpayer for the same tax period.
19 If the fraud penalty is asserted, however, no other penalties
20 shall be asserted.

21 "(h)(j) Waiver of penalties. Notwithstanding the
22 foregoing, no penalty under this title or Section ~~10-2B-15.02~~
23 10A-2-15.02 shall be assessed, if reasonable cause exists; or
24 if a penalty has been assessed, it shall be waived upon a
25 determination of reasonable cause. Reasonable cause shall
26 include, but not be limited to, those instances in which the

1 taxpayer has acted in good faith. The burden of proving
2 reasonable cause shall be on the taxpayer.

3 ~~"(i)(k)~~ Discount sustained for ~~just causes~~
4 reasonable cause. All other provisions of tax laws
5 notwithstanding, either the ~~Commissioner of the Department of~~
6 ~~Revenue~~ commissioner or the taxpayer advocate of the
7 department, upon review of the circumstances involved, may
8 authorize the continuance or reinstatement of a
9 ~~statute-allowable~~ an otherwise allowable discount for timely
10 payment or filing when timely payment ~~is made, but~~ or filing
11 ~~is~~ was delayed for ~~just causes~~ reasonable cause.

12 ~~"(j)(1)~~ Penalty and interest assessed as tax. All
13 penalties and interest administered by the department shall be
14 assessed and collected in the same manner as taxes.

15 ~~"(k)(m)~~ Penalty not to apply to registration and
16 titling of motor vehicles. The penalties provided herein shall
17 not apply to the registration or titling of motor vehicles.

18 "§40-18-27.

19 "(a) Effective for tax years beginning after
20 December 31, 1997, every taxpayer having an adjusted gross
21 income for the taxable year of more than one thousand eight
22 hundred seventy-five dollars (\$1,875) if single or if married
23 and not living with spouse, and of more than three thousand
24 seven hundred fifty dollars (\$3,750) if married and living
25 with spouse, shall each year file with the Department of
26 Revenue a return stating specifically the items of gross
27 income, the deductions and credits allowed by this chapter,

1 the place of residence, and post office address. If a husband
2 and wife living together have an adjusted gross income of more
3 than three thousand seven hundred fifty dollars (\$3,750), each
4 shall file a return unless the income of each is included in a
5 single joint return. If the taxpayer is unable to file a
6 return, the return shall be filed by a duly authorized agent,
7 a guardian, or other person charged with the care of the
8 person or property of the taxpayer.

9 "(b) A taxpayer other than a resident shall not be
10 entitled to the deductions authorized by Sections 40-18-15 and
11 40-18-15.2 unless the taxpayer files a complete return showing
12 the gross income of the taxpayer both from within and outside
13 the state. Included on every income tax return shall be the
14 name, and address, and social security number or Preparer
15 Taxpayer Identification Number of the person who prepared the
16 return. The taxpayer shall be held liable for any statement
17 made by an agent of the taxpayer with reference to any
18 information required by law to be furnished in connection with
19 that tax return.

20 "(c) Returns filed on the basis of the calendar year
21 shall be filed on or before April 15 following the close of
22 the calendar year. Returns filed on the basis of a fiscal year
23 shall be filed on or before the fifteenth day of the fourth
24 month following the close of the fiscal year. The department
25 may grant a reasonable extension of time for filing returns,
26 under rules and regulations as it shall prescribe. Except in
27 the case of taxpayers who are abroad, no extension shall be

1 for more than six months. If the taxpayer has requested an
2 extension of time for the filing of a return, the period
3 during which the return will be considered timely filed shall
4 not expire until 10 days after the Department of Revenue mails
5 to the taxpayer a rejection of the request for an extension of
6 time for filing the return. The return must be signed or
7 otherwise validated by both the taxpayer(s) and, if
8 applicable, the tax return preparer under rules or regulations
9 of the Department of Revenue and must contain a printed
10 declaration that the return is filed under the penalties of
11 perjury.

12 "(d) Every individual who willfully files and signs
13 or otherwise validates under rules or regulations of the
14 Department of Revenue a return which the individual does not
15 believe to be true and correct as to every material particular
16 shall be guilty of perjury and, upon conviction thereof, shall
17 be imprisoned in the penitentiary for not less than one, nor
18 more than five years.

19 "(e) In the event a husband and wife file a joint
20 return, the husband and wife shall be jointly and severally
21 liable for the income tax shown on the return or as may be
22 determined by the Department of Revenue to be due by them to
23 the State of Alabama. Notwithstanding the foregoing, ~~an~~
24 ~~innocent spouse~~ a husband or wife shall be relieved of certain
25 liabilities to the same extent and in the same manner as
26 ~~granted~~ allowed by the Internal Revenue Code for federal

1 income tax purposes, including 26 U.S.C. §§ 6015(b), 6015(c),
2 and 6015(f), as amended from time to time."

3 Section 5. All laws or parts of laws which conflict
4 with this act are repealed; and Section 40-2A-9, Code of
5 Alabama 1975, is specifically repealed.

6 Section 6. The provisions of this act are severable.
7 If any part of this act is declared invalid or
8 unconstitutional, that declaration shall not affect the part
9 which remains.

10 Section 7. It is the intent of the Legislature that
11 the existence, authority, and powers of the Administrative Law
12 Division of the Department of Revenue shall remain in full
13 force and effect until the Tax Appeals Commission created
14 herein becomes fully operational on October 1, 2012, and that
15 all appeals filed pursuant to Sections 40-2A-7 and 40-2A-8
16 shall continue to be filed with and handled by the
17 Administrative Law Division until that date. To that end, the
18 repeal of Section 40-2A-9, and those portions of other
19 sections of Titles 11 and 40 relating to the powers,
20 authority, and duties of the Administrative Law Division and
21 the administrative law judge, and the right of a taxpayer to
22 appeal to the Administrative Law Division, shall not become
23 effective until October 1, 2012. Notwithstanding the
24 foregoing, the Tax Appeals Commission shall not have
25 jurisdiction over any appeals regarding taxes levied by or on
26 behalf of a self-administered county or municipality until
27 October 1, 2013. The amendments to Section 40-2A-7(b)(2)f.,

1 Code of Alabama 1975, relating to amended returns due to
2 federal audit changes, Section 40-2A-7(b)(2)b., Code of
3 Alabama 1975, relating to the six-year statute of limitations
4 for corporate income tax purposes, and Section 40-2A-11, Code
5 of Alabama 1975, relating to civil penalties, by this act
6 shall only apply to tax periods beginning on or after January
7 1, 2013.

8 Section 8. This act shall become effective upon its
9 passage and approval by the Governor, or its otherwise
10 becoming law.