

HB505 ENROLLED



1 HB505
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3 By Representative Sells
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HB505 Enrolled

Enrolled, An Act,

Relating to the Alabama Tax Tribunal; to amend Sections 40-2A-7, and 40-2A-8, Code of Alabama 1975, regarding the Taxpayers' Bill of Rights, to extend the time period that taxpayers have to appeal to the Alabama Tax Tribunal or circuit court; and amend Section 40-2B-2, regarding the operation of the Alabama Tax Tribunal, to provide the compensation of the judges of the tribunal to be the same as administrative law judges.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 40-2A-7 and 40-2A-8, Code of Alabama 1975, are amended as follows:

"§40-2A-7

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

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

(2) The department may examine and audit the records,



HB505 Enrolled

books, or other relevant information maintained by any taxpayer or other person for the purpose of computing and determining the correct amount of value or correct amount of any tax, license, or fee administered by the department, or for any other purpose necessary for the proper administration of any matter under the jurisdiction of the department.

(3) A taxpayer, or any officer of a corporation or association, or partner of a partnership, or fiduciary of a trust, or responsible individual of any entity under a duty to maintain books and records pursuant to this subsection who fails or refuses to maintain such records and books, or permit inspection, shall be subject to contempt proceedings in the circuit court of the judicial circuit in which the person resides or has a principal place of business, and upon proof of the fact to the court, may be punished for contempt as provided in cases of contempt in circuit court.

(4) The department may summon any witness to appear and give testimony, and summon by subpoena duces tecum any records, books, or other information of any kind relating to any matter which the department has authority to administer. The witness may be summoned by subpoena issued by the secretary of the department, any circuit judge, any magistrate, or any district judge, in the name of the department, directed to any sheriff of Alabama and returnable to the department. The subpoena may be served in like manner as subpoenas issued out of any circuit court, or the subpoena may be served by an authorized employee of the department or by either U.S. mail with delivery confirmation or certified



HB505 Enrolled

mail, return receipt requested. A fee shall be paid to banking institutions, other similar entities, or any other person except the taxpayer, for copying, searching for, reproducing, and transporting any records, books, papers, or other documents requested or subpoenaed by the department and to persons who are required to appear as a witness equal to the fee authorized to be paid by the Internal Revenue Service for similar services or appearances pursuant to Section 26 U.S.C. § 7610 ~~of the Internal Revenue Code of 1986~~, as amended. If any witness has been subpoenaed to appear and testify or appear and produce records, books, or other information, and fails or refuses to appear or testify or to produce the books, records, or other information, that witness shall be subject to contempt proceedings in the circuit court of the judicial circuit in which the witness resides, and upon proof of the fact to a circuit court may be punished for contempt as is provided in cases of contempt in circuit court.

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

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

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



HB505 Enrolled

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

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

c. All preliminary and final assessments issued by the department shall be executed as provided by regulations ~~promulgated~~adopted by the department.

(2) TIME LIMITATION FOR ENTERING PRELIMINARY ASSESSMENT. Any preliminary assessment shall be entered within three years from the due date of the return, or three years from the date the return is filed with the department, whichever is later, or if no return is required to be filed, within three years of the due date of the tax, except as follows:

a. A preliminary assessment may be entered at any time



HB505 Enrolled

113 if no return is filed as required, or if a false or fraudulent
114 return is filed with the intent to evade tax.

115 b. A preliminary assessment may be entered within six
116 years from the due date of the return or six years from the
117 date the return is filed with the department, whichever is
118 later, if the taxpayer omits from the taxable base an amount
119 properly includable therein which is in excess of 25 percent
120 of the amount of the taxable base stated in the return.

121 For purposes of this paragraph:

122 1. The term "taxable base" means the gross income,
123 gross proceeds from sales, gross receipts, net worth, or other
124 amounts on which the tax paid with the return is computed; and

125 2. In determining the amount omitted from the taxable
126 base, there shall not be taken into account any amount which
127 is omitted from the taxable base stated in the return if the
128 amount is disclosed in the return, or in a statement attached
129 to the return, in a manner adequate to apprise the department
130 of the nature and amount of the item.

131 c. A preliminary assessment entered pursuant to
132 Sections 40-29-72 and 40-29-73, may be entered within five
133 years from the due date of the return on which the underlying
134 tax is required to be reported or within five years of the
135 date the return is filed, whichever is later.

136 d.1. In the case of income received during the lifetime
137 of a decedent, or by his or her estate during the period of
138 administration, the preliminary assessment of any income tax
139 shall be entered within 18 months after written request
140 therefor, filed after the return is made, by the executor,



HB505 Enrolled

141 administrator, or other fiduciary representing the estate of
142 the decedent, but not after the expiration of three years from
143 the due date of the return or three years from the date the
144 return is filed with the department, whichever is later.

145 2. In the case of income received by a corporation
146 contemplating dissolution, a preliminary assessment of any
147 income tax shall be entered within 18 months after written
148 request, by the corporation, filed after the return is made,
149 but not after the expiration of three years from the due date
150 of the return or three years from the date the return is filed
151 with the department, whichever is later. This subparagraph
152 shall not apply to any corporation unless dissolution is
153 completed within 18 months of the date of the written notice.

154 e. If a taxpayer has made the election provided in
155 ~~subsection (d) or (e) of~~ Section 40-18-8 (d) or (e), a
156 preliminary assessment based on the gain realized as a result
157 of the involuntary conversion [in the case of ~~subsection (d)~~
158 ~~of~~ Section 40-18-8 (d)] or a rollover of gain on the sale of a
159 personal residence [as provided in ~~subsection (e) of~~ Section
160 40-18-8 (e)] may be entered within three years from the date
161 the taxpayer notified the department of the replacement of the
162 property in accordance with ~~subsection (d) or (e) of~~ Section
163 40-18-8 (d) or (e), as the case may be, or of his or her
164 intention not to replace the property.

165 f. If a taxpayer has validly elected to have the
166 provisions of ~~subdivision (a) (7) of~~ Section 40-18-6 (a) (7) and
167 ~~subsection (1) of~~ Section 40-18-8 (1) apply to an acquisition
168 of stock before January 1, 1985, any liability of the taxpayer



HB505 Enrolled

under this title, solely from amendment of its returns to be consistent with that election may be assessed at any time within five years from the date on which the taxpayer filed the amended returns with the department.

g.1. When the Internal Revenue Service changes the amount of federal income tax or federal estate tax in any manner and the change results in an increase in additional income tax or estate tax owed under this title, the department may, at any time within one year after the department is notified or otherwise learns that the change has become final, enter a preliminary assessment for additional tax due. The department shall be allowed to assess the tax within the time period otherwise allowed by this section. Any tax assessed within the additional one year period allowed shall be limited to those items changed on the federal income tax return or federal estate tax return that affect the income tax liability or the estate tax liability imposed by this title.

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



HB505 Enrolled

imposed by this title.

3. For purposes of this subdivision, the date that a federal change becomes final is the date on which the taxpayer and the Internal Revenue Service formally agree to the changes, or the date of any administrative or judicial order, judgment, or decree from which no further appeal was or may be taken.

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

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

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

i. The department and the taxpayer ~~may~~, prior to the expiration of the period for entering a preliminary assessment or the filing of a petition for refund, may agree in writing to extend the time provided for entering the assessment or filing the petition in this chapter. The tax may be assessed, or the petition for refund may be filed, at any time prior to the expiration of the period agreed upon. The period agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

j. Additional tax may be assessed by the department within any applicable period allowed above, even though a preliminary or final assessment has been previously entered by



HB505 Enrolled

the department against the same taxpayer for the same or a portion of the same tax period. No taxpayer, however, shall be subject to unnecessary examination or investigation, and only one inspection of a taxpayer's books and records relating to each type of tax administered by the department shall be made for each taxable year, unless the taxpayer requests otherwise or unless the commissioner after investigation, notifies the taxpayer in writing that an additional inspection is necessary. The commissioner shall ~~promulgate~~adopt regulations consistent with those followed by the Internal Revenue Service with respect to second inspection of a taxpayer's books and records.

k. The three-year statute of limitations provided by this subdivision for entering a preliminary assessment shall be extended as provided in the following sentence, for the benefit of a self-administered county or municipality, in cases where: ~~1.~~(i) the department has audited a taxpayer and has entered a final assessment against the taxpayer for additional sales, use, rental, or lodgings tax; ~~2.~~(ii) the taxpayer owes the same type of tax to the self-administered county or municipality for the same tax period or periods; and ~~3.~~(iii) the taxpayer or its authorized representative has not contacted the county or municipality or its private auditing firm, pursuant to its voluntary disclosure program, prior to the date of entry of the final assessment. In such cases, the statute of limitations shall not expire until the earlier of six months from the date of entry of the final assessment or 60 days following the date of mailing or transmittal by



HB505 Enrolled

electronic mail by the department to the self-administered county or municipality or its private auditing firm of a copy of the notice of final assessment and any attachments thereto. Any tax assessed by the self-administered county or municipality within the additional time period allowed by this subdivision shall be limited to those items changed or adjustments included in the final assessment entered by the department. The Alabama Tax Tribunal, during the months of January and July of each year, shall publish a list of pending appeals and the tax or taxes at issue.

(3) SERVICE OF PRELIMINARY ASSESSMENT UPON TAXPAYER.

The preliminary assessment entered by the department, or a copy thereof, shall be promptly mailed by the department to the taxpayer's last known address by either first class U.S. mail or certified mail with return receipt requested, but at the option of the department, the preliminary assessment may be delivered to the taxpayer by personal service.

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

a. If a taxpayer disagrees with a preliminary assessment as entered by the department, the taxpayer may file a written petition for review with the department within 30 days from the date of mailing or personal service, whichever occurs earlier, of the preliminary assessment setting out the specific objections to the preliminary assessment. If a petition for review is timely filed, or if the department otherwise deems it necessary, the department shall schedule a conference with the taxpayer for the purpose of allowing the



HB505 Enrolled

taxpayer and the department to present their respective positions, discuss any omissions or errors, and to attempt to agree upon any changes or modifications to their respective positions.

b. If a written petition for review:

1. Is not timely filed~~;~~; or

2. Is properly filed, and upon further review the department determines the preliminary assessment is due to be upheld in whole or in part, the department may make the assessment final in the amount of tax due as computed by the department, with applicable interest and penalty computed to the date of entry of the final assessment.

c. If a preliminary assessment is not withdrawn or made final by the department within five years from the date of entry, the taxpayer may appeal the preliminary assessment to the Alabama Tax Tribunal or to the appropriate circuit court as provided by ~~subsection~~subdivision (b) (5) for an appeal of a final assessment.

d. The final assessment entered by the department, or a copy thereof, shall be mailed by the department to the taxpayer's last known address by either: (i) first class U.S. mail or certified mail with return receipt requested in the case of assessments of tax of five hundred dollars (\$500) or less; or (ii) certified mail with return receipt requested in the case of assessments of tax of more than five hundred dollars (\$500). In either case and at the option of the department, the final assessment, or a copy thereof, may be delivered to the taxpayer by personal service.



HB505 Enrolled

(5) PROCEDURE FOR APPEAL FROM FINAL ASSESSMENT.

a. A taxpayer may appeal to the Alabama Tax Tribunal from any final assessment entered by the department by filing a notice of appeal with the Alabama Tax Tribunal within ~~30~~60 days from the date of mailing or personal service, whichever occurred earlier, of the final assessment, and the appeal, if timely filed, shall proceed as provided in Chapter 2B for appeals to the Alabama Tax Tribunal.

b.1. In lieu of the appeal under paragraph a., at the option of the taxpayer, the taxpayer may appeal from any final assessment to the Circuit Court of Montgomery County, Alabama, or to the circuit court of the county in which the taxpayer resides or has a principal place of business in Alabama, as appropriate, by filing notice of appeal within ~~30~~60 days from the date of mailing or personal service, whichever occurs earlier, of the final assessment with both the secretary of the department and the clerk of the circuit court in which the appeal is filed.

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

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

(ii) File a supersedeas bond with the court for 125 percent of the amount of the tax, interest, and any penalty shown on the final assessment. The supersedeas bond shall be executed by a surety company licensed and authorized to do business in Alabama and shall be conditioned to pay the amount



HB505 Enrolled

of tax, interest, and any penalties shown on the final assessment, plus applicable interest and any court costs relating to the appeal, payable to the department, or the self-administered county or municipality, if applicable.

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

(iv) File a pledge or collateral assignment of securities with the circuit court that constitute eligible collateral under Chapter 14A, Title 41, in an amount equal to 200 percent of the amount of the tax, interest, and penalty shown on the final assessment. The pledge or collateral assignment shall be in favor of the department or the self-administered county or municipality, if applicable, and conditioned to pay the assessment plus applicable interest and any court costs relating to the appeal.



HB505 Enrolled

(v) Show to the satisfaction of the clerk of the circuit court to which the appeal is taken that the taxpayer has a net worth, on the basis of fair market value, of two hundred fifty thousand dollars (\$250,000) or less, including his or her homestead.

3. A taxpayer may appeal a final assessment to either the Alabama Tax Tribunal or to circuit court as provided herein, even though the taxpayer has paid the tax in issue prior to taking the appeal.

c.1. The filing of the notice of appeal with the Alabama Tax Tribunal or, in the case of appeals to the circuit court, the filing of the notice of appeal with both the secretary of the department and the clerk of the circuit court in which the appeal is filed and also the payment of the assessment in full and applicable interest or the filing of a supersedeas bond, an irrevocable letter of credit, or a pledge or collateral assignment of securities as provided herein, are jurisdictional. Except as set forth in subparagraph 2., if such prerequisites are not satisfied within the time provided for appeal, the appeal shall be dismissed for lack of jurisdiction.

2. Notwithstanding subparagraph 1., should the circuit court determine that the taxpayer has not satisfied the requirements of subparagraph b.2., the circuit court shall order that the taxpayer satisfy such requirements. The taxpayer may satisfy such requirements at any time within 30 days after service of the court order. No order of dismissal for lack of jurisdiction shall be entered within 30 days after



HB505 Enrolled

393 service of the court order, and no order of dismissal shall
394 thereafter be entered if such requirement is satisfied within
395 such 30-day period.

396 3. On appeal to the circuit court or to the Alabama Tax
397 Tribunal, the final assessment shall be prima facie correct,
398 and the burden of proof shall be on the taxpayer to prove the
399 assessment is incorrect.

400 d.1. The Alabama Tax Tribunal, circuit court, or the
401 appellate court on appeal may increase or decrease the
402 assessment to reflect the correct amount due.

403 2. If a final assessment is reduced on appeal, any
404 overpayment of tax paid by the taxpayer shall immediately be
405 refunded to the taxpayer by the state, county, municipality,
406 or other entity to which the overpayment was distributed.

407 3. No court shall have the power to enjoin the
408 collection of any taxes due on an assessment so appealed or to
409 suspend the payment thereof.

410 (c) Procedure governing petitions for refund; appeals
411 therefrom.

412 (1) PETITION FOR REFUND ALLOWED, GENERALLY. Any
413 taxpayer may file a petition for refund with the department
414 for any overpayment of tax or other amount erroneously paid to
415 the department or concerning any refund which the department
416 is required to administer. If a final assessment for the tax
417 has been entered by the department, a petition for refund of
418 all or a portion of the tax may be filed only if the final
419 assessment plus applicable interest has been paid in full
420 prior to or with the filing of the petition for refund. The



HB505 Enrolled

department may also issue automatic refunds pursuant to Section 40-29-71. In the case of a petition for refund of public utilities taxes pursuant to Chapter 21, sales or use taxes pursuant to Chapter 23, and any transient occupancy tax pursuant to Chapter 26, a petition may be filed by the consumer/purchaser who paid the tax directly to the taxpayer that collected the tax, or by the taxpayer if the taxpayer remitted in excess of the tax due, however never collected the tax from the consumer/purchaser, or by the taxpayer if the consumer/purchaser paid the tax directly to the taxpayer, provided that a refund shall not be paid to the taxpayer until after the tax has been credited or repaid to the consumer/purchaser by the taxpayer. The department may adopt rules and establish procedures regarding petitions for refund, including establishing procedures for claiming such refunds on an annual basis when the amount of a refund is less than twenty-five dollars (\$25.00) and offsetting any state use tax liability against any refund otherwise due prior to paying a refund.

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

a. Generally. A petition for refund shall be filed with the department or an automatic refund issued pursuant to Section 40-29-71, or a credit allowed, within: (i) three years from the date that the return was filed; or (ii) two years from the date of payment of the tax, whichever is later, or, if no return was timely filed, two years from the date of payment of the tax. For purposes of this paragraph, taxes paid



HB505 Enrolled

through withholding or by estimated payment shall be deemed paid on the original due date of the return.

b. Net Operating Loss Carryback. In lieu of the periods provided in paragraph a., in the case of a net operating loss carryback, the period for filing a petition for refund, the department making an automatic refund or allowing a credit shall be the period prescribed in 26 U.S.C. ~~Section~~§ 6511(d)(2) for the claiming of a credit or refund.

(3) DEPARTMENT REQUIRED TO GRANT OR DENY REFUNDS; TIME LIMITATIONS. The department shall either grant or deny a petition for refund within six months from the date the petition is filed, unless the period is extended by written agreement of the taxpayer and the department. The taxpayer shall be notified of the department's decision concerning the petition for refund by first class mail, or by either United States mail with delivery confirmation or by certified mail, return receipt requested, sent to the taxpayer's last known address. If the department fails to grant a refund within the time provided herein, the petition for refund shall be deemed to be denied.

(4) PROCEDURES IF REFUNDS GRANTED; CREDIT OF REFUND; PAYMENT OF OTHER TAXES; PAYMENT OF INTEREST. If a petition is granted, or the department, the Alabama Tax Tribunal, or a court otherwise determines that a refund is due, the overpayment shall be refunded to the taxpayer by the state, county, municipality, or other entity to which the overpayment was distributed. If the department determines that a refund is due, the amount of overpayment plus accrued interest may first



HB505 Enrolled

be credited by the department against any outstanding final tax liabilities due and owing by the taxpayer to the department, and the balance of any overpayment shall, subject to the setoff provisions of Article 3 of Chapter 18, be refunded to the taxpayer. If any refund or part thereof is credited to any other tax by the department, the department shall provide a written detailed statement to the taxpayer showing the amount of overpayment, the amount credited for payment to other taxes, and the amount refunded.

(5) PROCEDURES IF REFUND DENIED; APPEAL.

a. A taxpayer may appeal from the denial in whole or in part of a petition for refund by filing a notice of appeal with the Alabama Tax Tribunal within two years from the date the petition is denied, and the appeal, if timely filed, shall proceed as hereinafter provided for appeals to the Alabama Tax Tribunal.

b. In lieu of appealing to the Alabama Tax Tribunal, the taxpayer may appeal from the denial of a petition for refund by filing a notice of appeal with the Circuit Court in Montgomery County, Alabama, or the circuit court of the county in which the taxpayer resides or has a principal place of business in Alabama, as appropriate, by filing the notice of appeal within two years from the date the petition is denied. The circuit court shall hear the appeal according to its own rules and procedures and shall determine the correct amount of refund due, if any.

c. If an appeal is not filed with the Alabama Tax Tribunal or the circuit court within two years of the date the



HB505 Enrolled

petition is denied, then the appeal shall be dismissed for lack of jurisdiction.

(d) The Department of Revenue shall revise existing regulations or administrative guidance, or issue new regulations or administrative guidance, as appropriate, in conformance with this section.

(e) This section shall apply to all appeals filed after June 15, 2007. Notwithstanding the prior sentence, in any appeal to a circuit court which is pending on June 15, 2007, and in which a supersedeas bond was filed pursuant to, and in compliance with, the requirements of this section, for double the amount of the tax, interest, and any penalty shown on the final assessment, or for double the amount of the final order of the administrative law judge, such bond may be reduced to 125 percent of such amount shown on the final assessment or in the final order of the administrative law judge."

"§40-2A-8

(a) The department shall notify a taxpayer in writing of any act or proposed act or refusal to act concerning the denial or revocation of a license, permit, or certificate of title concerning which the taxpayer has any interest. The notice must be mailed by either first-class U.S. mail, U.S. mail with delivery confirmation, or certified U.S. mail to the taxpayer's last known address. Any taxpayer aggrieved by any act or proposed act or refusal to act concerning the denial or revocation of a license, permit, or certificate of title by the department shall be entitled to file a notice of appeal from such act or proposed act or refusal to act with the



HB505 Enrolled

Alabama Tax Tribunal. Such notice of appeal must be filed within ~~30~~60 days of the date notice of such act or refusal to act is mailed to the taxpayer, and such appeal, if timely filed, shall proceed as herein provided for appeals to the Alabama Tax Tribunal.

(b) A taxpayer may elect, but is not required, to file a notice of appeal with the Alabama Tax Tribunal regarding a notice of proposed adjustment issued by the department affecting the taxpayer's net operating loss deductions or carryovers for purposes of the taxes imposed by Chapters 16 and 18 of this title. Such notice of appeal shall be filed within the time period prescribed in subsection (a), and the Alabama Tax Tribunal shall have jurisdiction to determine the amount of the taxpayer's net operating loss deductions or carryovers for the tax periods in question.

(c) The department may proceed with the intended action if no appeal is filed by the taxpayer with the Alabama Tax Tribunal within the time allowed under subsection (a). If a designated agent has failed to provide the department with a bond and any qualifying license as provided in Section 32-8-34, the revocation of designated agent status by the department shall be effective immediately upon electronic notice through the system the designated agent uses to process applications for certificates of title or receipt of written notice of revocation, whether by U.S. mail or hand delivery. Otherwise, the revocation of a designated agent status shall be effective after the time for appeal under this section has expired. If a new or used motor vehicle dealer, motor vehicle



HB505 Enrolled

wholesaler, motor vehicle reconditioner, or motor vehicle
rebuilder licensee has failed to provide the department with
or maintain the required bond or insurance, the revocation of
the regulatory license shall be effective immediately upon
electronic notice through the system the licensee uses to
apply for or renew the regulatory license or upon written
notice or revocation, whether by U.S. mail or hand delivery.
Otherwise, the revocation of the regulatory license shall be
effective after the time for appeal under this section has
expired. The revocation of any motor vehicle certificate of
title or license by the department shall not be final until
either the titled owner and lien holder, if any, consent to
the revocation or the time for filing an appeal to the Alabama
Tax Tribunal has expired. The department may obtain an
injunction in the appropriate circuit court at any time
enjoining a licensee or designated agent from continuing to
operate under a disputed license or designated agent
authority, if the continued operation may cause substantial
loss of revenue, would cause substantial harm to the state or
public, or for such other good reason as determined by the
circuit court. The department may suspend the designated
agent's access to process new applications for certificate of
title until such time as any outstanding title applications
not properly filed by the designated agent are properly filed
with the department.

(d) This section shall not apply to the procedures
governing assessments and refunds which are otherwise provided
for by this chapter, or to intradepartmental personnel actions



HB505 Enrolled

or any matter which is the subject of any action then pending in state or federal court, or to the collection of any liability due the department.

(e) A taxpayer may appeal any matter governed by this section in accordance with Section 40-2B-2(m) only after exhausting his or her appeal rights provided under this section. Any appeal must be from a final or appealable order issued by the Alabama Tax Tribunal."

Section 2. Section 40-2B-2, Code of Alabama 1975, is amended as follows:

"§40-2B-2

(a) Statement of Purpose. To increase public confidence in the fairness of the state tax system, the state shall provide an independent agency with tax expertise to resolve disputes between the Department of Revenue and taxpayers, prior to requiring the payment of the amounts in issue or the posting of a bond, but after the taxpayer has had a full opportunity to attempt settlement with the Department of Revenue based, among other things, on the hazards of litigation. By establishing an independent Alabama Tax Tribunal within the executive branch of government, this chapter provides taxpayers with a means of resolving controversies that ~~insures~~ensures both the appearance and the reality of due process and fundamental fairness.

The tax tribunal shall provide hearings in all tax matters, except those specified by statute, and render decisions and orders relating thereto. A tax tribunal hearing shall be commenced by the filing of a notice of appeal



HB505 Enrolled

617 protesting a tax determination made by the Department of
618 Revenue, including any determination that cancels, revokes,
619 suspends, or denies an application for a license, permit, or
620 registration. A final decision of the tax tribunal shall have
621 the same force and effect as, and shall be subject to appeal
622 in the same manner as, a final decision of a state circuit
623 court.

624 It is the intent of the Legislature that this chapter
625 foster the settlement or other resolution of tax disputes to
626 the extent possible and, in cases in which litigation is
627 necessary, to provide the people of Alabama with a fair and
628 independent dispute resolution forum with the Department of
629 Revenue. The chapter shall be interpreted and construed to
630 further this intent.

631 (b) Tax Tribunal: Establishment.

632 (1) A tax tribunal is hereby established in the
633 executive branch of government. The tribunal is referred to in
634 this chapter as the "Alabama Tax Tribunal."

635 (2) The Alabama Tax Tribunal shall be separate from and
636 independent of the authority of the Commissioner of Revenue
637 and the Department of Revenue. For purposes of this chapter,
638 the term "Department of Revenue" means the Alabama Department
639 of Revenue and does not include the governing body of any
640 self-administered county or municipality.

641 (3) The Alabama Tax Tribunal shall be created and exist
642 as of October 1, 2014, but the chief judge shall be appointed
643 by July 1, 2014, to take any action that is necessary to
644 enable the Alabama Tax Tribunal to properly exercise the



HB505 Enrolled

duties, functions, and powers given the Alabama Tax Tribunal under this chapter.

(4) The Alabama Tax Tribunal shall maintain an official docket and other records as deemed necessary by the chief judge. Such records may be maintained in electronic format.

(5) Any judge, or any employee of the Alabama Tax Tribunal as designated in writing by the chief judge, may administer oaths.

(c) Judges: Number; Appointment; Term of Office; Removal.

(1) The Alabama Tax Tribunal shall consist of at least one full-time judge, and there shall be no more than three judges serving at any one time. If there is more than one judge, each shall exercise the powers of the Alabama Tax Tribunal.

(2) The judges of the Alabama Tax Tribunal shall be appointed by the Governor for a term of six years. If the tribunal has more than one judge, the judges initially appointed should be given terms of different lengths not exceeding six years, so that all judges' terms do not expire in the same year.

(3) The Chief Judge of the Alabama Tax Tribunal shall receive such a salary as is provided from time to time at the top pay scale within Pay Grade 88 equivalent to the top of the pay range assigned to the chief administrative law judge classification within of the compensation plan of the state Merit System. Associate judges shall receive such salary ~~as is provided from time to time within Pay Grade 84~~ which shall not



HB505 Enrolled

673 exceed the top of the pay range assigned to the administrative
674 law judge classification within ~~of the compensation plan of~~
675 the state Merit System, as determined by the chief judge. The
676 judges shall receive no other monetary compensation. ~~This~~
677 ~~subsection shall neither increase nor decrease the salary~~
678 ~~received by the chief administrative law judge of the~~
679 ~~Department of Revenue, who shall become the initial Chief~~
680 ~~Judge of the Alabama Tax Tribunal pursuant to this chapter.~~

681 (4) Once appointed and confirmed, the judge shall
682 continue in office until his or her term expires and until a
683 successor has been appointed, unless otherwise removed as
684 provided herein.

685 (5) A vacancy in the Alabama Tax Tribunal occurring
686 otherwise than by expiration of term shall be filled for the
687 unexpired term in the same manner as an original appointment.

688 (6) If more than one judge is appointed, the Governor
689 shall designate one of the members as chief judge, in this
690 chapter referred to as the "chief judge." The chief judge
691 shall be the executive of the Alabama Tax Tribunal, shall have
692 sole charge of the administration of the Alabama Tax Tribunal,
693 and shall apportion among the judges all causes, matters, and
694 proceedings coming before the Alabama Tax Tribunal. The
695 individual designated as chief judge shall serve in that
696 capacity at the pleasure of the Governor.

697 (7) The Governor, subject to the dismissal provisions
698 of a classified state employee as provided in Section
699 36-26-10, may remove a judge, after notice and an opportunity
700 to be heard, for neglect of duty, inability to perform duties,



HB505 Enrolled

or malfeasance in office.

(8) Whenever the Alabama Tax Tribunal trial docket or business becomes congested or any judge of the Alabama Tax Tribunal is absent, is disqualified, or for any other reason is unable to perform his or her duties as judge, and it appears to the Governor that it is advisable that the services of an additional judge or judges be provided, the Governor may appoint a judge, or judges, pro tempore of the Alabama Tax Tribunal. Any person appointed judge pro tempore of the Alabama Tax Tribunal shall have the qualifications set forth in subdivisions (d) (1) and (d) (2) ~~of subsection (d)~~ and shall be entitled to serve for a period no longer than six months.

(9) A judge may disqualify himself or herself on his or her own motion in any matter, and may be disqualified for any of the causes specified in Title 12, including, but not limited to, Sections 12-1-12 and 12-1-13.

(d) Judges: Qualifications; Prohibition Against Other Gainful Employment.

(1) Each judge of the Alabama Tax Tribunal shall be a citizen of the United States and, during the period of his or her service, a resident of this state. No person shall be appointed as a judge, unless, at the time of appointment, the individual has substantial knowledge of the tax law and substantial experience making the record in a tax case suitable for judicial review.

(2) Before entering upon the duties of office, each judge shall take and subscribe to an oath or affirmation that he or she will faithfully discharge the duties of the office,



HB505 Enrolled

and such oath shall be filed in the office of the Secretary of State.

(3) Each judge shall devote his or her full time during business hours to the duties of his or her office. A judge shall not engage in any other gainful employment or business, nor hold another office or position of profit in a government of this state, any other state, or the United States.

Notwithstanding the foregoing provisions, a judge may own passive interests in business entities and earn income from incidental teaching or scholarly activities unless the activities conflict with his or her duties as a judge.

(4) Alabama Tax Tribunal ~~Judges~~judges shall be subject to disciplinary proceedings before the Judicial Inquiry Commission to the same extent as circuit judges. The Judicial Inquiry Commission shall have the authority to remove any Alabama Tax Tribunal ~~Judge~~judge from office, after notice and an opportunity to be heard, for neglect of duty, inability to perform duties, malfeasance in office, or other good cause.

(5) Alabama Tax Tribunal ~~Judges~~judges shall be classified state employees as provided in Section 36-26-10. As such, a judge, except for appointment, reconfirmation, removal, and dismissal as provided herein, shall be entitled to all benefits and protections available to classified state employees.

(6) The chief judge may employ one Executive Assistant III as an unclassified service state employee, as provided in Section 36-26-10(c). All other Alabama Tax Tribunal personnel shall be appointed or hired by the chief judge, as necessary



HB505 Enrolled

for the proper operation of the Alabama Tax Tribunal and shall be state employees under the state Merit System. The Executive Assistant III employed in the Administrative Law Division as of September 30, 2014, shall be transferred to the Alabama Tax Tribunal, along with any other Merit System employees employed by the Administrative Law Division on that date.

(e) Principal Office: Locations; Facilities.

(1) The Alabama Tax Tribunal's principal office shall be located in Montgomery, Alabama.

(2) The Alabama Tax Tribunal shall conduct hearings at its principal office. The Alabama Tax Tribunal may also hold hearings at any place within the state, with a view toward securing to taxpayers a reasonable opportunity to appear before the Alabama Tax Tribunal with as little inconvenience and expense as practicable.

(3) If the appeal involves a tax levied by or on behalf of only one self-administered county or municipality, the Alabama Tax Tribunal, if so requested by the self-administered county or municipality or the taxpayer, shall hold the hearing either in the county seat of the affected county or the county seat of the county in which the affected municipality is located or in the appropriate Department of Revenue taxpayer service center, according to the proximity of such municipality or county to the taxpayer service center.

(4) The principal office of the Alabama Tax Tribunal shall be located in a building that is separate and apart from the building in which the Department of Revenue is located.

(f) Appointment of Employees, Expenditures of the



HB505 Enrolled

Alabama Tax Tribunal.

(1) The Alabama Tax Tribunal shall appoint employees and may employ temporary court reporters and make such other expenditures, including expenditures for library, publications, and equipment, as are necessary to permit it to efficiently execute its functions.

(2) No employee of the Alabama Tax Tribunal shall act as attorney, representative, or accountant for others in a matter involving any tax imposed or levied by this state.

(3) A ~~non-merit~~nonmerit system employee of the Alabama Tax Tribunal may be removed by the chief judge, after notice and an opportunity to be heard, for neglect of duty, inability to perform duties, malfeasance in office, or for other good cause.

(4) In addition to the services of a court reporter, the Alabama Tax Tribunal may contract the reporting of its proceedings and, in the contract, fix the terms and conditions under which transcripts will be supplied by the contractor to the Alabama Tax Tribunal and to other persons and agencies.

(g) Jurisdiction of the Alabama Tax Tribunal.

(1) Except as permitted by subsection (m) relating to judicial review, or the Constitution of Alabama of ~~1901~~2022, the Alabama Tax Tribunal shall be the sole, exclusive, and final authority for the hearing and determination of questions of law and fact arising under the tax laws of this state. The Alabama Tax Tribunal shall have jurisdiction to hear and determine all appeals pending before the Department of Revenue's Administrative Law Division on October 1, 2014, and



HB505 Enrolled

all subsequent appeals filed with the Alabama Tax Tribunal pursuant to Chapters 2A, 27, and 29 of this title, Chapters 6, 7A, 8, 13, and 20 of Title 32, relating to motor vehicles, or subdivision (2) of this subsection, relating to self-administered counties and municipalities.

a. However, such jurisdiction shall also be limited to only those self-administered counties and municipalities that choose to participate under the auspices of the Alabama Tax Tribunal.

b. Such jurisdiction shall not apply to appeals filed directly with the circuit court from a final assessment entered by the department or from the department's denial in whole or in part of a claim for refund.

c. Such jurisdiction shall not apply to the assessment of ad valorem taxes, except that appeals from final assessments of value of property of public utilities under Chapter 21 may be heard by the Alabama Tax Tribunal in accordance with the procedures set forth in this chapter.

(2) a. Unless a self-administered county or municipality elects, in the manner prescribed below, to divest the Alabama Tax Tribunal of jurisdiction over appeals of final assessments or denied refunds in whole or in part, of any sales, use, rental, or lodgings taxes levied or collected from time to time by or on behalf of the self-administered county or municipality, a taxpayer may appeal a final assessment or denied refund involving any such tax to the Alabama Tax Tribunal in accordance with the procedures and requirements provided in Section 40-2A-7 and this chapter. For purposes of



HB505 Enrolled

any appeal filed by a taxpayer pursuant to this section, the term "department" as used in Section 40-2A-7 means the governing body of the applicable self-administered county or municipality and not the Department of Revenue, and the term "secretary" as used in Section 40-2A-7 means the clerk of the governing body of the applicable self-administered county or municipality.

b. Subject to the limitation imposed by paragraph e., the election-out under this section shall be made by serving a copy of the ordinance or resolution evidencing the election-out, adopted by the governing body of the self-administered county or municipality pursuant to this section, with the Alabama Tax Tribunal. Service may be accomplished by mailing a copy of the ordinance or resolution, certified by an appropriate official, by either U.S. mail with delivery confirmation or certified U.S. mail, return receipt requested, by hand delivery, or by an expedited courier service to the Alabama Tax Tribunal's office. The Alabama Tax Tribunal shall promptly publish notice of the election-out pursuant to paragraph d., and the election shall be effective on the date that notice is published. Notwithstanding the foregoing, appeals of final assessments or denied refunds involving the electing county or municipality that were pending before the Alabama Tax Tribunal on the date that notice of the election-out is published shall continue to be heard and decided by the Alabama Tax Tribunal as if the election-out had not been made.

c. Subject to the limitation imposed by paragraph e.,



HB505 Enrolled

an election-out may be revoked, prospectively, by the governing body of the self-administered county or municipality at any time by resolution or ordinance, a certified copy of which shall be served on the Alabama Tax Tribunal in the manner prescribed above. The revocation of an election-out vests jurisdiction in the Alabama Tax Tribunal over all appeals of final assessments or denied refunds, in whole or in part, of the county's or municipality's sales, use, rental, and lodgings taxes that are entered or denied on or after the date that notice of revocation is published by the Alabama Tax Tribunal.

d. At least once a month, the Alabama Tax Tribunal shall provide the Department of Revenue with a list of all self-administered counties and municipalities that have elected-out pursuant to paragraph b. or that have filed a notice of revocation of their election-out pursuant to paragraph c. The Department of Revenue shall publish the list on its website and otherwise make available to the public in the same manner that the rates and administrators of certain county and municipal taxes are published by the Department of Revenue. The Alabama Tax Tribunal may also publish the list on its own website.

e. A self-administered county or municipality may make only one election-out under paragraph b. or one revocation under paragraph c. during each calendar year. If an appeal is timely filed with the Alabama Tax Tribunal after the notice of an election-out by the self-administered county or municipality is published by the Alabama Tax Tribunal, the



HB505 Enrolled

897 appeal shall be deemed timely filed with and transferred to
898 the self-administered county or municipality. If an appeal is
899 timely filed with a self-administered county or municipality
900 after the notice of revocation by the self-administered county
901 or municipality is published by the Alabama Tax Tribunal, the
902 appeal shall be deemed timely filed with and transferred to
903 the Alabama Tax Tribunal.

904 f. The appeals process for a self-administered county
905 or municipality that has elected to divest the Alabama Tax
906 Tribunal of jurisdiction shall function in a manner similar to
907 the procedures prescribed for appeals to the Alabama Tax
908 Tribunal. The hearing or appeals officer shall function and
909 conduct hearings in a manner similar to the Chief Judge of the
910 Alabama Tax Tribunal and must be impartial and reasonably
911 knowledgeable of the sales, use, rental, and lodgings tax laws
912 and the taxing jurisdiction's applicable code or ordinances.

913 (3) Except as permitted by subsection (m) relating to
914 judicial review, no person shall contest any matter within the
915 jurisdiction of the Alabama Tax Tribunal in any action, suit,
916 or proceeding in any other court of the state. However, such
917 exclusive jurisdiction shall not be required of those
918 self-administered counties and municipalities that choose not
919 to participate under the auspices of the Alabama Tax Tribunal.
920 With the aforementioned exceptions noted, if a person attempts
921 to contest any matter with the remaining jurisdiction, then
922 such action, suit, or proceeding shall be dismissed without
923 prejudice. The improper commencement of any action, suit, or
924 proceeding will not extend the time period for commencing a



HB505 Enrolled

925 proceeding in the Alabama Tax Tribunal.

926 (4) Except in cases involving the denial of a claim for
927 refund and except as provided in Alabama statute regarding
928 jeopardy assessments, the taxpayer shall have the right to
929 have his or her case heard by the Alabama Tax Tribunal prior
930 to the payment of any of the amounts asserted as due by the
931 Department of Revenue and prior to the posting of any bond.

932 (5) If, with or after the filing of a timely notice of
933 appeal, the taxpayer pays all or part of the tax or other
934 amount in issue before the Alabama Tax Tribunal has rendered a
935 decision, the Alabama Tax Tribunal shall treat the taxpayer's
936 notice of appeal as a protest of a denial of a claim for
937 refund of the amount so paid.

938 (6) The Alabama Tax Tribunal shall decide questions
939 regarding the constitutionality of the application of statutes
940 to the taxpayer and the constitutionality of regulations
941 ~~promulgated~~adopted by the Department of Revenue, but shall not
942 have the power to declare a statute unconstitutional on its
943 face. A taxpayer desiring to challenge the constitutionality
944 of a statute on its face, at the taxpayer's election, may do
945 so by one of the following methods:

946 a. Commence a declaratory action in the courts of
947 Alabama with respect to the constitutional challenge, and file
948 a notice of appeal with the Alabama Tax Tribunal with respect
949 to the remainder of the matter, which proceeding shall be
950 stayed by the Alabama Tax Tribunal pending final resolution of
951 the constitutional challenge.

952 b. File a notice of appeal with the Alabama Tax



HB505 Enrolled

Tribunal with respect to issues other than the constitutional challenge, in which the taxpayer preserves the constitutional challenge until the entire matter, including the constitutional challenge and the facts related to the constitutional challenge, is presented to the appellate court.

c. Commence and simultaneously prosecute a declaratory action in the courts of Alabama with respect to the constitutional challenge and a proceeding in the Alabama Tax Tribunal with respect to the remainder of the issues.

(h) Pleadings.

(1) A taxpayer may commence a proceeding in the Alabama Tax Tribunal by filing a notice of appeal protesting the Department of Revenue's determination imposing a liability for tax, penalty, or interest; denying a refund or credit application; canceling, revoking, suspending, or denying an application for a license, permit, or registration; or taking any other action that gives a person the right to a hearing under the law. The notice of appeal shall be filed in accordance with the time periods required by Sections 40-2A-7 and 40-2A-8, or any other applicable provision that is within the jurisdiction of the Alabama Tax Tribunal. For purposes of this chapter, the term "taxpayer" includes a person: a. (i) who is challenging the state's jurisdiction over the person; and b. (ii) who has standing to challenge the validity or applicability of the tax. The notice of appeal filed by the taxpayer with the Alabama Tax Tribunal shall identify the final assessment, denied refund, or other act or refusal to act by the department which is the subject of the appeal, the



HB505 Enrolled

981 position of the appealing party, the basis on which relief
982 should be granted, and the relief sought. A notice of appeal
983 that does not include all of the above information shall be
984 sufficient to invoke the jurisdiction of the Alabama Tax
985 Tribunal. The judge may require a taxpayer to file an amended
986 notice of appeal if more information is deemed necessary.

987 (2) If the appeal involves a tax levied by or on behalf
988 of a self-administered county or municipality, the Alabama Tax
989 Tribunal shall promptly mail a copy of the notice of appeal by
990 either U.S. mail with delivery confirmation or certified U.S.
991 mail to the governing body of the affected county or
992 municipality and shall provide the taxpayer or its authorized
993 representative with written notification of the date the copy
994 was mailed to the governing body. The affected county or
995 municipality shall file a written answer with the Alabama Tax
996 Tribunal within 45 days of the date of mailing the notice of
997 appeal to the affected county or municipality. The judge may
998 allow the county or municipality additional time, not to
999 exceed 45 days, within which to file an answer. The answer
1000 shall state the facts and the issues involved and the county's
1001 or municipality's position relating thereto. The judge may
1002 require the county or municipality to file an amended answer
1003 if more information is deemed necessary. The county or
1004 municipality and its authorized representatives may consult
1005 with the Legal Division of the Department of Revenue
1006 concerning the appeal.

1007 (3) The Alabama Tax Tribunal shall notify the Legal
1008 Division of the Department of Revenue in writing that an



HB505 Enrolled

1009 appeal has been filed and shall mail a copy of such
1010 notification to the taxpayer or its authorized representative.
1011 The Department of Revenue shall file its answer in the Alabama
1012 Tax Tribunal no later than 45 days after its receipt of the
1013 Alabama Tax Tribunal's notification that the taxpayer has
1014 filed a notice of appeal. Upon written request, the Alabama
1015 Tax Tribunal may grant up to 45 additional days to file an
1016 answer. The Department of Revenue shall serve a copy on the
1017 taxpayer's representative or, if the taxpayer is not
1018 represented, on the taxpayer, and shall file proof of such
1019 service with the answer.

1020 (4) The taxpayer may file a reply in the Alabama Tax
1021 Tribunal within 30 days after receipt of the answer. The
1022 taxpayer shall serve a copy on the authorized representative
1023 of the Department of Revenue and shall file proof of such
1024 service with the reply. When a reply has been filed, or, if no
1025 reply has been filed, then 30 days after the filing of the
1026 answer, the controversy shall be deemed at issue and will be
1027 scheduled for hearing.

1028 (5) Either party may amend a pleading once without
1029 leave at any time before the period for responding to it
1030 expires. After such time, a pleading may be amended only with
1031 the written consent of the adverse party or with the
1032 permission of the Alabama Tax Tribunal. The Alabama Tax
1033 Tribunal shall freely grant consent to amend upon such terms
1034 as may be just. Except as otherwise ordered by the Alabama Tax
1035 Tribunal, there shall be an answer or reply to an amended
1036 pleading if an answer or reply is required to the pleading



HB505 Enrolled

1037 being amended. Filing of the answer, or, if the answer has
1038 already been filed, the amended answer, shall be made no later
1039 than 75 days after filing of the amended notice of appeal.
1040 Filing of the reply or, if the reply has already been filed,
1041 the amended reply, shall be made within 30 days after filing
1042 of the amended answer. The taxpayer may not amend a notice of
1043 appeal after expiration of the time for filing a notice of
1044 appeal, if such amendment would have the effect of conferring
1045 jurisdiction on the Alabama Tax Tribunal over a matter that
1046 would otherwise not come within its jurisdiction. An amendment
1047 of a pleading shall relate back to the time of filing of the
1048 original pleading, unless the Alabama Tax Tribunal shall order
1049 otherwise either on motion of a party or on the Alabama Tax
1050 Tribunal's own initiative.

1051 (i) Fees. No filing fee shall be imposed for any appeal
1052 filed with the Alabama Tax Tribunal.

1053 (j) Discovery and Stipulation.

1054 (1) The parties to a proceeding shall make every effort
1055 to achieve discovery by informal consultation or
1056 communication, before invoking the discovery mechanisms
1057 authorized by this section.

1058 (2) The parties to a proceeding shall stipulate all
1059 relevant and non-privileged matters to the fullest extent to
1060 which complete or qualified agreement can or fairly should be
1061 reached. Neither the existence nor the use of the discovery
1062 mechanisms authorized by this section shall excuse failure to
1063 comply with this provision.

1064 (3) Subject to reasonable limitations prescribed by the



HB505 Enrolled

1065 Alabama Tax Tribunal, a party may obtain discovery by written
1066 interrogatories; requests for the production of returns,
1067 books, papers, documents, correspondence, or other evidence;
1068 depositions of parties, ~~non-party~~nonparty witnesses and
1069 experts; and requests for admissions. The Alabama Tax Tribunal
1070 may provide for other forms of discovery.

1071 (4) A judge of the Alabama Tax Tribunal, on the request
1072 of any party to the proceeding, may issue subpoenas requiring
1073 the attendance of witnesses and giving of testimony and
1074 subpoenas duces tecum requiring the production of evidence or
1075 things.

1076 (5) Any employee of the Alabama Tax Tribunal designated
1077 in writing for the purpose by the chief judge may administer
1078 oaths.

1079 (6) Any witness subpoenaed or whose deposition is taken
1080 shall receive the same fees and mileage as a witness in a
1081 circuit court of Alabama.

1082 (7) The Alabama Tax Tribunal may enforce its orders on
1083 discovery and other procedural issues, among other means, by
1084 deciding issues wholly or partly against the offending party.

1085 (k) Hearings.

1086 (1) Proceedings before the Alabama Tax Tribunal shall
1087 be tried de novo and without a jury.

1088 (2) Except as set forth in this chapter or otherwise
1089 precluded by law, the Alabama Tax Tribunal shall take
1090 evidence, conduct hearings, and issue final and preliminary
1091 orders. An appeal may be held in abeyance at the discretion of
1092 the judge or may be submitted for decision on a joint



HB505 Enrolled

1093 stipulation of facts without a hearing or as otherwise agreed
1094 by the parties. A judge of the Alabama Tax Tribunal, with or
1095 without a hearing, may dismiss any appeal or grant appropriate
1096 relief to any party, if a party refuses to comply with any
1097 regulation or statute concerning appeals before the Alabama
1098 Tax Tribunal or if a party refuses to comply with any
1099 preliminary order directing the party to take such action as
1100 deemed appropriate by a judge of the Alabama Tax Tribunal.

1101 (3) Hearings shall be open to the public and shall be
1102 conducted in accordance with such rules of practice and
1103 procedure as the Alabama Tax Tribunal may ~~promulgate~~adopt.
1104 Notwithstanding the foregoing, on motion of either party, the
1105 Alabama Tax Tribunal shall issue a protective order or an
1106 order closing part or all of the hearing to the public, if the
1107 party shows good cause to protect certain information from
1108 being disclosed to the public.

1109 (4) The Alabama Tax Tribunal shall not be bound by the
1110 rules of evidence applicable to civil cases in the circuit
1111 courts of this state. The Alabama Tax Tribunal shall admit
1112 relevant evidence, including hearsay, if it is probative of a
1113 material fact in controversy. The Alabama Tax Tribunal shall
1114 exclude irrelevant and unduly repetitious evidence.
1115 Notwithstanding the foregoing, the rules of privilege
1116 recognized by law shall apply.

1117 (5) Testimony may be given only on oath or affirmation.

1118 (6) The notice of appeal and other pleadings in the
1119 proceeding shall be deemed to conform to the proof presented
1120 at the hearing, unless a party satisfies the Alabama Tax



HB505 Enrolled

1121 Tribunal that presentation of the evidence would unfairly
1122 prejudice the party in maintaining its position on the merits
1123 or unless deeming the taxpayer's notice of appeal to conform
1124 to the proof would confer jurisdiction on the Alabama Tax
1125 Tribunal over a matter that would not otherwise come within
1126 its jurisdiction.

1127 (7) In the case of an issue of fact, the taxpayer shall
1128 have the burden of persuasion by a preponderance of the
1129 evidence in the record, except that the Department of Revenue
1130 shall have the burden of persuasion in the case of an
1131 assertion of fraud and in other cases provided by law.

1132 (8) Proceedings before the Alabama Tax Tribunal shall
1133 be officially reported. The state shall pay the expense of
1134 reporting from the appropriation for the Alabama Tax Tribunal.

1135 (1) Decisions.

1136 (1) The Alabama Tax Tribunal shall render its decision
1137 in writing, including therein a concise statement of the facts
1138 found and the conclusions of law reached. The Alabama Tax
1139 Tribunal's decision, subject to law, shall grant such relief,
1140 invoke such remedies, and issue such orders as it deems
1141 appropriate to carry out its decision. A judge may enter a
1142 preliminary order directing one or more parties to take such
1143 action as deemed appropriate or referring any issue or issues
1144 in dispute to the Department of Revenue's Taxpayer Advocate
1145 for consideration if the issue or issues relate to a tax
1146 administered by the Department of Revenue. A judge, after a
1147 hearing or after a case is otherwise submitted for decision,
1148 may issue an opinion and preliminary order, which shall



HB505 Enrolled

1149 include findings of fact and conclusions of law. The opinion
1150 and preliminary order may direct the department to recompute a
1151 taxpayer's liability or the amount of a refund due or for any
1152 party to take such action as specified in the preliminary
1153 order.

1154 (2) The Alabama Tax Tribunal shall render its
1155 preliminary or final order, as applicable, no later than six
1156 months after submission of the last brief filed subsequent to
1157 completion of the hearing or, if briefs are not submitted,
1158 then no later than six months after completion of the hearing.
1159 The Alabama Tax Tribunal may extend the six-month period, for
1160 good cause, up to three additional months.

1161 (3) If the Alabama Tax Tribunal fails to render either
1162 a preliminary order or a final order within the prescribed
1163 period, either party may institute a proceeding in the circuit
1164 court to compel the issuance of such decision.

1165 (4) The Alabama Tax Tribunal's decision shall finally
1166 decide the matters in controversy, unless any party to the
1167 matter timely appeals the decision as provided in this
1168 chapter.

1169 (5) Any party may apply for rehearing from any final
1170 order or opinion and preliminary order of the Alabama Tax
1171 Tribunal; provided, however, the application must be filed
1172 within 15 days from the date of entry of such order. The
1173 application for rehearing shall specify the reasons and
1174 supporting arguments why such order is incorrect and should be
1175 reconsidered. The timely filing of an application for
1176 rehearing from a final order shall suspend the time period for



HB505 Enrolled

1177 filing an appeal to circuit court as provided in this chapter.
1178 If an application for rehearing is timely filed, the judge
1179 shall thereafter issue a final or other order on rehearing,
1180 either with or without a hearing on the application, at the
1181 discretion of the judge. The time for filing a notice of
1182 appeal to circuit court shall begin anew on the date of entry
1183 of the final order on rehearing.

1184 (6) The Alabama Tax Tribunal's final order shall have
1185 the same effect, and shall be enforced in the same manner, as
1186 a judgment of a circuit court of the state, unless altered or
1187 amended on appeal or rehearing.

1188 (7) The Alabama Tax Tribunal's interpretation of a
1189 taxing statute subject to contest in one case shall be
1190 followed by the Alabama Tax Tribunal in subsequent cases
1191 involving the same statute, and its application of a statute
1192 to the facts of one case shall be followed by the Alabama Tax
1193 Tribunal in subsequent cases involving similar facts, unless
1194 the Alabama Tax Tribunal's interpretation or application
1195 conflicts with that of an appellate court or the Alabama Tax
1196 Tribunal provides satisfactory reasons for reversing prior
1197 precedent.

1198 (m) Appeals.

1199 (1) Other than an application for rehearing to the
1200 Alabama Tax Tribunal, the exclusive remedy for review of any
1201 final or other appealable order issued by the Alabama Tax
1202 Tribunal shall be by appeal to the appropriate circuit court.

1203 (2) The taxpayer, a self-administered county or
1204 municipality whose tax is within the jurisdiction of the



HB505 Enrolled

1205 Alabama Tax Tribunal, or the Department of Revenue may appeal
1206 to circuit court from a final or other appealable order issued
1207 by the Alabama Tax Tribunal by filing a notice of appeal with
1208 the appropriate circuit court within 30 days from the date the
1209 final or other appealable order was entered. A copy of the
1210 notice of appeal shall be submitted to the Alabama Tax
1211 Tribunal within the 30-day appeal period. The Alabama Tax
1212 Tribunal shall thereafter prepare a record on appeal, which
1213 shall include the orders of the Alabama Tax Tribunal, the
1214 stenographic transcript of the hearing before the Alabama Tax
1215 Tribunal, the pleadings, and all exhibits and documents
1216 admitted into evidence. The appeal shall be filed in the
1217 following circuit courts:

1218 a. Any appeal by the Department of Revenue or a
1219 self-administered county or municipality whose tax is within
1220 the jurisdiction of the Alabama Tax Tribunal shall be filed
1221 with the circuit court of the county in which the taxpayer
1222 resides or has a principal place of business in Alabama.

1223 b. Any appeal by the taxpayer shall be filed with the
1224 Circuit Court of Montgomery County, Alabama, or with the
1225 circuit court of the county in which the taxpayer resides or
1226 has a principal place of business in Alabama.

1227 c. Notwithstanding paragraphs a. and b., if the
1228 taxpayer does not reside in Alabama or have a principal place
1229 of business in Alabama, any appeal by the taxpayer, the
1230 Department of Revenue, or a self-administered county or
1231 municipality whose tax is within the jurisdiction of the
1232 Alabama Tax Tribunal shall be filed with the Circuit Court of



HB505 Enrolled

1233 Montgomery County, Alabama.

1234 (3) If the appeal to circuit court pursuant to
1235 ~~subdivision~~paragraph (2)b. is by a taxpayer from a final order
1236 involving a final assessment, the taxpayer shall, within the
1237 30-day period allowed for appeals, satisfy one of the
1238 requirements under Section 40-2A-7(b)(5)b.2., relating to
1239 appeals to circuit court.

1240 (4) The appeal to circuit court from a final or other
1241 appealable order issued by the Alabama Tax Tribunal shall be a
1242 trial de novo, except that the order shall be presumed prima
1243 facie correct and the burden shall be on the appealing party
1244 to prove otherwise. The circuit court shall hear the case by
1245 its own rules and shall decide all questions of fact and law.
1246 The administrative record and transcript shall be transmitted
1247 to the reviewing court as provided herein and shall be
1248 admitted into evidence in the trial de novo, subject to the
1249 rights of either party to object to any testimony or evidence
1250 in the administrative record or transcript. With the consent
1251 of all parties, judicial review may be on the administrative
1252 record and transcript. The circuit court shall affirm, modify,
1253 or reverse the order of the Alabama Tax Tribunal, with or
1254 without remanding the case for further hearing, as justice may
1255 require.

1256 (n) Representation.

1257 (1) Appearances in proceedings conducted by the Alabama
1258 Tax Tribunal may be by the taxpayer; by an attorney admitted
1259 to practice in this state, including an attorney who is a
1260 partner or member of, or is employed by, an accounting or



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1261 other professional services firm; by an accountant licensed in
1262 this state; or by an authorized representative. The Alabama
1263 Tax Tribunal may allow any attorney or accountant authorized
1264 to practice or licensed in any other jurisdiction of the
1265 United States to appear and represent a taxpayer in
1266 proceedings before the Alabama Tax Tribunal for a particular
1267 matter. In addition, the Alabama Tax Tribunal may
1268 ~~promulgate~~adopt rules ~~and regulations~~ permitting a taxpayer to
1269 be represented by an officer, employee, partner, or member.

1270 (2) The department shall be represented by an
1271 authorized representative in all proceedings before the
1272 Alabama Tax Tribunal.

1273 (o) Publication of Decisions.

1274 The Alabama Tax Tribunal shall index and publish its
1275 final decisions in such print or electronic form as it deems
1276 best adapted for public convenience. Such publications shall
1277 be made permanently available and constitute the official
1278 reports of the Alabama Tax Tribunal.

1279 (p) Service of Process.

1280 (1) Mailing by first class or certified or registered
1281 mail, postage prepaid, to the address of the taxpayer given on
1282 the taxpayer's notice of appeal, or to the address of the
1283 taxpayer's representative of record, if any, or to the usual
1284 place of business of the Department of Revenue, shall
1285 constitute personal service on the other party. The Alabama
1286 Tax Tribunal, by rule, may prescribe that notice by other
1287 means shall constitute personal service and, in a particular
1288 case, may order that notice be given to additional persons or



HB505 Enrolled

1289 by other means.

1290 (2) Mailing by registered or certified mail and
1291 delivery by a private delivery service approved by the
1292 Internal Revenue Service in accordance with Section 26 U.S.C. §
1293 7502(f) of the Internal Revenue Code of 1986, as amended,
1294 shall be deemed to have occurred, respectively, on the date of
1295 mailing and the date of submission to the private delivery
1296 service.

1297 (3) Timely mailed document considered to be timely
1298 filed.

1299 (q) Rules and Forms.

1300 The Alabama Tax Tribunal is authorized to ~~promulgate~~
1301 ~~and~~ adopt all reasonable rules pursuant to the Alabama
1302 Administrative Procedure Act and forms as may be necessary or
1303 appropriate to carry out the intent and purposes of this
1304 chapter.

1305 (r) Budget of Alabama Tax Tribunal.

1306 The Chief Judge of the Alabama Tax Tribunal may
1307 contract or enter into agreements with any private or
1308 governmental agency, upon approval of the Director of Finance,
1309 for the rental of office space, and the rental or purchase of
1310 equipment, administrative or other support services, supplies,
1311 and all other property or services necessary for the operation
1312 of the Alabama Tax Tribunal. The funds for the operation of
1313 the Alabama Tax Tribunal shall be administered by the Alabama
1314 Tax Tribunal, through the chief judge. ~~With respect to the~~
1315 ~~fiscal year beginning October 1, 2014, there shall be~~
1316 ~~transferred from the Revenue Department Administrative Fund to~~



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1317 ~~the Alabama Tax Tribunal the amount of four hundred~~
1318 ~~twenty-five thousand dollars (\$425,000). The amount~~
1319 ~~transferred from the Revenue Department Administrative Fund~~
1320 ~~shall be disbursed to the Alabama Tax Tribunal in four equal~~
1321 ~~increments, at the beginning of each quarter of the fiscal~~
1322 ~~year. Thereafter, the~~The Chief Judge of the Alabama Tax
1323 Tribunal, shall prepare an annual budget and funds shall be
1324 appropriated annually by the Legislature from the Revenue
1325 Department Administrative Fund to be used exclusively for the
1326 operation of the Alabama Tax Tribunal."

1327 Section 3. Section 1 of this act shall become effective
1328 on October 1, 2025 and Section 2 of this act shall become
1329 effective on June 1, 2025.



HB505 Enrolled

Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in and was passed by the House 15-Apr-25.

John Treadwell
Clerk

Senate

07-May-25

Passed