

HB505 INTRODUCED



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3 By Representative Sells
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SYNOPSIS:

Under existing law, the Alabama Tax Tribunal was created as an independent agency to hear appeals of tax and other matters administered by the Department of Revenue and certain self-administered counties and municipalities.

A taxpayer may appeal to the Alabama Tax Tribunal or circuit court within 30 days of a final assessment of tax entered by the department.

The chief judge of the Alabama Tax Tribunal receives a salary at the top pay scale within Pay Grade 88 of the state Merit System and associate judges receive salaries within Pay Grade 84 of the state Merit System.

This bill would increase the amount of time a taxpayer may appeal a final assessment to the Alabama Tax Tribunal or circuit court from 30 days to 60 days.

This bill would also provide that the judges of the Alabama Tax Tribunal are compensated at the same rate as administrative law judges.

A BILL
TO BE ENTITLED
AN ACT



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29
30 Relating to the Alabama Tax Tribunal; to amend Sections
31 40-2A-7, and 40-2A-8, Code of Alabama 1975, regarding the
32 Taxpayers' Bill of Rights, to extend the time period that
33 taxpayers have to appeal to the Alabama Tax Tribunal or
34 circuit court; and amend Section 40-2B-2, regarding the
35 operation of the Alabama Tax Tribunal, to provide the
36 compensation of the judges of the tribunal to be the same as
37 administrative law judges.

38 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

41 "§40-2A-7

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

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

55 (2) The department may examine and audit the records,
56 books, or other relevant information maintained by any



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57 taxpayer or other person for the purpose of computing and
58 determining the correct amount of value or correct amount of
59 any tax, license, or fee administered by the department, or
60 for any other purpose necessary for the proper administration
61 of any matter under the jurisdiction of the department.

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

72 (4) The department may summon any witness to appear and
73 give testimony, and summon by subpoena duces tecum any
74 records, books, or other information of any kind relating to
75 any matter which the department has authority to administer.
76 The witness may be summoned by subpoena issued by the
77 secretary of the department, any circuit judge, any
78 magistrate, or any district judge, in the name of the
79 department, directed to any sheriff of Alabama and returnable
80 to the department. The subpoena may be served in like manner
81 as subpoenas issued out of any circuit court, or the subpoena
82 may be served by an authorized employee of the department or
83 by either U.S. mail with delivery confirmation or certified
84 mail, return receipt requested. A fee shall be paid to banking



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85 institutions, other similar entities, or any other person
86 except the taxpayer, for copying, searching for, reproducing,
87 and transporting any records, books, papers, or other
88 documents requested or subpoenaed by the department and to
89 persons who are required to appear as a witness equal to the
90 fee authorized to be paid by the Internal Revenue Service for
91 similar services or appearances pursuant to ~~Section~~26 U.S.C. §
92 ~~7610 of the Internal Revenue Code of 1986~~, as amended. If any
93 witness has been subpoenaed to appear and testify or appear
94 and produce records, books, or other information, and fails or
95 refuses to appear or testify or to produce the books, records,
96 or other information, that witness shall be subject to
97 contempt proceedings in the circuit court of the judicial
98 circuit in which the witness resides, and upon proof of the
99 fact to a circuit court may be punished for contempt as is
100 provided in cases of contempt in circuit court.

101 (5) The department may issue forms and make reasonable
102 regulations concerning any matter administered by the
103 department. Regulations ~~promulgated~~adopted by the department
104 shall be issued in accordance with the procedures set forth in
105 the Alabama Administrative Procedure Act, Chapter 22 of Title
106 41.

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

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

112 a. If the department determines that the amount of any



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113 tax as reported on a return is incorrect, or if no return is
114 filed, or if the department is required to determine value,
115 the department may calculate the correct tax or value based on
116 the most accurate and complete information reasonably
117 obtainable by the department. The department may thereafter
118 enter a preliminary assessment for the correct tax or value,
119 including any applicable penalty and interest.

120 b. Where the amount of tax or value reported on a
121 return is undisputed by the department, or the taxpayer
122 consents to the amount of any deficiency, determination of
123 value, or preliminary assessment in writing as provided by
124 regulation, the department may immediately enter a final
125 assessment for the amount of the tax or value, plus applicable
126 penalty and interest; provided, the department may at any time
127 enter a final jeopardy assessment pursuant to Sections
128 40-17A-12, 40-29-90, and 40-29-91.

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

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

139 a. A preliminary assessment may be entered at any time
140 if no return is filed as required, or if a false or fraudulent



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141 return is filed with the intent to evade tax.

142 b. A preliminary assessment may be entered within six
143 years from the due date of the return or six years from the
144 date the return is filed with the department, whichever is
145 later, if the taxpayer omits from the taxable base an amount
146 properly includable therein which is in excess of 25 percent
147 of the amount of the taxable base stated in the return.

148 For purposes of this paragraph:

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

152 2. In determining the amount omitted from the taxable
153 base, there shall not be taken into account any amount which
154 is omitted from the taxable base stated in the return if the
155 amount is disclosed in the return, or in a statement attached
156 to the return, in a manner adequate to apprise the department
157 of the nature and amount of the item.

158 c. A preliminary assessment entered pursuant to
159 Sections 40-29-72 and 40-29-73, may be entered within five
160 years from the due date of the return on which the underlying
161 tax is required to be reported or within five years of the
162 date the return is filed, whichever is later.

163 d.1. In the case of income received during the lifetime
164 of a decedent, or by his or her estate during the period of
165 administration, the preliminary assessment of any income tax
166 shall be entered within 18 months after written request
167 therefor, filed after the return is made, by the executor,
168 administrator, or other fiduciary representing the estate of



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169 the decedent, but not after the expiration of three years from
170 the due date of the return or three years from the date the
171 return is filed with the department, whichever is later.

172 2. In the case of income received by a corporation
173 contemplating dissolution, a preliminary assessment of any
174 income tax shall be entered within 18 months after written
175 request, by the corporation, filed after the return is made,
176 but not after the expiration of three years from the due date
177 of the return or three years from the date the return is filed
178 with the department, whichever is later. This subparagraph
179 shall not apply to any corporation unless dissolution is
180 completed within 18 months of the date of the written notice.

181 e. If a taxpayer has made the election provided in
182 ~~subsection (d) or (e) of~~ Section 40-18-8 (d) or (e), a
183 preliminary assessment based on the gain realized as a result
184 of the involuntary conversion [in the case of ~~subsection (d)~~
185 ~~of~~ Section 40-18-8 (d)] or a rollover of gain on the sale of a
186 personal residence [as provided in ~~subsection (e) of~~ Section
187 40-18-8 (e)] may be entered within three years from the date
188 the taxpayer notified the department of the replacement of the
189 property in accordance with ~~subsection (d) or (e) of~~ Section
190 40-18-8 (d) or (e), as the case may be, or of his or her
191 intention not to replace the property.

192 f. If a taxpayer has validly elected to have the
193 provisions of ~~subdivision (a) (7) of~~ Section 40-18-6 (a) (7) and
194 ~~subsection (1) of~~ Section 40-18-8 (1) apply to an acquisition
195 of stock before January 1, 1985, any liability of the taxpayer
196 under this title, solely from amendment of its returns to be



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197 consistent with that election may be assessed at any time
198 within five years from the date on which the taxpayer filed
199 the amended returns with the department.

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

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



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

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

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

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

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

249 j. Additional tax may be assessed by the department
250 within any applicable period allowed above, even though a
251 preliminary or final assessment has been previously entered by
252 the department against the same taxpayer for the same or a



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

264 k. The three-year statute of limitations provided by
265 this subdivision for entering a preliminary assessment shall
266 be extended as provided in the following sentence, for the
267 benefit of a self-administered county or municipality, in
268 cases where: ~~1.~~(i) the department has audited a taxpayer and
269 has entered a final assessment against the taxpayer for
270 additional sales, use, rental, or lodgings tax; ~~2.~~(ii) the
271 taxpayer owes the same type of tax to the self-administered
272 county or municipality for the same tax period or periods; and
273 ~~3.~~(iii) the taxpayer or its authorized representative has not
274 contacted the county or municipality or its private auditing
275 firm, pursuant to its voluntary disclosure program, prior to
276 the date of entry of the final assessment. In such cases, the
277 statute of limitations shall not expire until the earlier of
278 six months from the date of entry of the final assessment or
279 60 days following the date of mailing or transmittal by
280 electronic mail by the department to the self-administered



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

290 (3) SERVICE OF PRELIMINARY ASSESSMENT UPON TAXPAYER.

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

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

299 a. If a taxpayer disagrees with a preliminary
300 assessment as entered by the department, the taxpayer may file
301 a written petition for review with the department within 30
302 days from the date of mailing or personal service, whichever
303 occurs earlier, of the preliminary assessment setting out the
304 specific objections to the preliminary assessment. If a
305 petition for review is timely filed, or if the department
306 otherwise deems it necessary, the department shall schedule a
307 conference with the taxpayer for the purpose of allowing the
308 taxpayer and the department to present their respective



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309 positions, discuss any omissions or errors, and to attempt to
310 agree upon any changes or modifications to their respective
311 positions.

312 b. If a written petition for review:

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

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

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

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

336 (5) PROCEDURE FOR APPEAL FROM FINAL ASSESSMENT.



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

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

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

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

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



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365 assessment, plus applicable interest and any court costs
366 relating to the appeal, payable to the department, or the
367 self-administered county or municipality, if applicable.

368 (iii) File an irrevocable letter of credit with the
369 circuit court in an amount equal to 125 percent of the amount
370 of the tax, interest, and any penalty shown on the final
371 assessment. The irrevocable letter of credit shall be issued
372 by a financial institution designated as a qualified public
373 depository by the Board of Directors of the Security for
374 Alabama Funds Enhancement (SAFE) Program pursuant to Chapter
375 14A, Title 41. The department or the self-administered county
376 or municipality, if applicable, shall be named the beneficiary
377 of the irrevocable letter of credit. The irrevocable letter of
378 credit shall be conditioned to pay the assessment plus
379 applicable interest and any court costs relating to the
380 appeal. The taxpayer may not issue an irrevocable letter of
381 credit as to a final assessment entered against the same
382 taxpayer.

383 (iv) File a pledge or collateral assignment of
384 securities with the circuit court that constitute eligible
385 collateral under Chapter 14A, Title 41, in an amount equal to
386 200 percent of the amount of the tax, interest, and penalty
387 shown on the final assessment. The pledge or collateral
388 assignment shall be in favor of the department or the
389 self-administered county or municipality, if applicable, and
390 conditioned to pay the assessment plus applicable interest and
391 any court costs relating to the appeal.

392 (v) Show to the satisfaction of the clerk of the



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

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

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

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



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421 thereafter be entered if such requirement is satisfied within
422 such 30-day period.

423 3. On appeal to the circuit court or to the Alabama Tax
424 Tribunal, the final assessment shall be prima facie correct,
425 and the burden of proof shall be on the taxpayer to prove the
426 assessment is incorrect.

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

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

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

437 (c) Procedure governing petitions for refund; appeals
438 therefrom.

439 (1) PETITION FOR REFUND ALLOWED, GENERALLY. Any
440 taxpayer may file a petition for refund with the department
441 for any overpayment of tax or other amount erroneously paid to
442 the department or concerning any refund which the department
443 is required to administer. If a final assessment for the tax
444 has been entered by the department, a petition for refund of
445 all or a portion of the tax may be filed only if the final
446 assessment plus applicable interest has been paid in full
447 prior to or with the filing of the petition for refund. The
448 department may also issue automatic refunds pursuant to



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449 Section 40-29-71. In the case of a petition for refund of
450 public utilities taxes pursuant to Chapter 21, sales or use
451 taxes pursuant to Chapter 23, and any transient occupancy tax
452 pursuant to Chapter 26, a petition may be filed by the
453 consumer/purchaser who paid the tax directly to the taxpayer
454 that collected the tax, or by the taxpayer if the taxpayer
455 remitted in excess of the tax due, however never collected the
456 tax from the consumer/purchaser, or by the taxpayer if the
457 consumer/purchaser paid the tax directly to the taxpayer,
458 provided that a refund shall not be paid to the taxpayer until
459 after the tax has been credited or repaid to the
460 consumer/purchaser by the taxpayer. The department may adopt
461 rules and establish procedures regarding petitions for refund,
462 including establishing procedures for claiming such refunds on
463 an annual basis when the amount of a refund is less than
464 twenty-five dollars (\$25.~~00~~) and offsetting any state use tax
465 liability against any refund otherwise due prior to paying a
466 refund.

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

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



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477 paid on the original due date of the return.

478 b. Net Operating Loss Carryback. In lieu of the periods
479 provided in paragraph a., in the case of a net operating loss
480 carryback, the period for filing a petition for refund, the
481 department making an automatic refund or allowing a credit
482 shall be the period prescribed in 26 U.S.C. Section
483 6511(d)(2) for the claiming of a credit or refund.

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

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



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

513 (5) PROCEDURES IF REFUND DENIED; APPEAL.

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

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

530 c. If an appeal is not filed with the Alabama Tax
531 Tribunal or the circuit court within two years of the date the
532 petition is denied, then the appeal shall be dismissed for



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533 lack of jurisdiction.

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

538 (e) This section shall apply to all appeals filed after
539 June 15, 2007. Notwithstanding the prior sentence, in any
540 appeal to a circuit court which is pending on June 15, 2007,
541 and in which a supersedeas bond was filed pursuant to, and in
542 compliance with, the requirements of this section, for double
543 the amount of the tax, interest, and any penalty shown on the
544 final assessment, or for double the amount of the final order
545 of the administrative law judge, such bond may be reduced to
546 125 percent of such amount shown on the final assessment or in
547 the final order of the administrative law judge."

548 "§40-2A-8

549 (a) The department shall notify a taxpayer in writing
550 of any act or proposed act or refusal to act concerning the
551 denial or revocation of a license, permit, or certificate of
552 title concerning which the taxpayer has any interest. The
553 notice must be mailed by either first-class U.S. mail, U.S.
554 mail with delivery confirmation, or certified U.S. mail to the
555 taxpayer's last known address. Any taxpayer aggrieved by any
556 act or proposed act or refusal to act concerning the denial or
557 revocation of a license, permit, or certificate of title by
558 the department shall be entitled to file a notice of appeal
559 from such act or proposed act or refusal to act with the
560 Alabama Tax Tribunal. Such notice of appeal must be filed



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

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

575 (c) The department may proceed with the intended action
576 if no appeal is filed by the taxpayer with the Alabama Tax
577 Tribunal within the time allowed under subsection (a). If a
578 designated agent has failed to provide the department with a
579 bond and any qualifying license as provided in Section
580 32-8-34, the revocation of designated agent status by the
581 department shall be effective immediately upon electronic
582 notice through the system the designated agent uses to process
583 applications for certificates of title or receipt of written
584 notice of revocation, whether by U.S. mail or hand delivery.
585 Otherwise, the revocation of a designated agent status shall
586 be effective after the time for appeal under this section has
587 expired. If a new or used motor vehicle dealer, motor vehicle
588 wholesaler, motor vehicle reconditioner, or motor vehicle



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

613 (d) This section shall not apply to the procedures
614 governing assessments and refunds which are otherwise provided
615 for by this chapter, or to intradepartmental personnel actions
616 or any matter which is the subject of any action then pending



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617 in state or federal court, or to the collection of any
618 liability due the department.

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

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

626 "§40-2B-2

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

640 The tax tribunal shall provide hearings in all tax
641 matters, except those specified by statute, and render
642 decisions and orders relating thereto. A tax tribunal hearing
643 shall be commenced by the filing of a notice of appeal
644 protesting a tax determination made by the Department of



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645 Revenue, including any determination that cancels, revokes,
646 suspends, or denies an application for a license, permit, or
647 registration. A final decision of the tax tribunal shall have
648 the same force and effect as, and shall be subject to appeal
649 in the same manner as, a final decision of a state circuit
650 court.

651 It is the intent of the Legislature that this chapter
652 foster the settlement or other resolution of tax disputes to
653 the extent possible and, in cases in which litigation is
654 necessary, to provide the people of Alabama with a fair and
655 independent dispute resolution forum with the Department of
656 Revenue. The chapter shall be interpreted and construed to
657 further this intent.

658 (b) Tax Tribunal: Establishment.

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

662 (2) The Alabama Tax Tribunal shall be separate from and
663 independent of the authority of the Commissioner of Revenue
664 and the Department of Revenue. For purposes of this chapter,
665 the term "Department of Revenue" means the Alabama Department
666 of Revenue and does not include the governing body of any
667 self-administered county or municipality.

668 (3) The Alabama Tax Tribunal shall be created and exist
669 as of October 1, 2014, but the chief judge shall be appointed
670 by July 1, 2014, to take any action that is necessary to
671 enable the Alabama Tax Tribunal to properly exercise the
672 duties, functions, and powers given the Alabama Tax Tribunal



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673 under this chapter.

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

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

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

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

687 (2) The judges of the Alabama Tax Tribunal shall be
688 appointed by the Governor for a term of ~~6~~six years. If the
689 tribunal has more than one judge, the judges initially
690 appointed should be given terms of different lengths not
691 exceeding ~~6~~six years, so that all judges' terms do not expire
692 in the same year.

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



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701 law judge classification within ~~of the compensation plan of~~
702 the state Merit System, as determined by the chief judge. The
703 judges shall receive no other monetary compensation. ~~This~~
704 ~~subsection shall neither increase nor decrease the salary~~
705 ~~received by the chief administrative law judge of the~~
706 ~~Department of Revenue, who shall become the initial Chief~~
707 ~~Judge of the Alabama Tax Tribunal pursuant to this chapter.~~

708 (4) Once appointed and confirmed, the judge shall
709 continue in office until his or her term expires and until a
710 successor has been appointed, unless otherwise removed as
711 provided herein.

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

715 (6) If more than one judge is appointed, the Governor
716 shall designate one of the members as chief judge, in this
717 chapter referred to as the "chief judge." The chief judge
718 shall be the executive of the Alabama Tax Tribunal, shall have
719 sole charge of the administration of the Alabama Tax Tribunal,
720 and shall apportion among the judges all causes, matters, and
721 proceedings coming before the Alabama Tax Tribunal. The
722 individual designated as chief judge shall serve in that
723 capacity at the pleasure of the Governor.

724 (7) The Governor, subject to the dismissal provisions
725 of a classified state employee as provided in Section
726 36-26-10, may remove a judge, after notice and an opportunity
727 to be heard, for neglect of duty, inability to perform duties,
728 or malfeasance in office.



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

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

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

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

753 (2) Before entering upon the duties of office, each
754 judge shall take and subscribe to an oath or affirmation that
755 he or she will faithfully discharge the duties of the office,
756 and such oath shall be filed in the office of the Secretary of



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757 State.

758 (3) Each judge shall devote his or her full time during
759 business hours to the duties of his or her office. A judge
760 shall not engage in any other gainful employment or business,
761 nor hold another office or position of profit in a government
762 of this state, any other state, or the United States.
763 Notwithstanding the foregoing provisions, a judge may own
764 passive interests in business entities and earn income from
765 incidental teaching or scholarly activities unless the
766 activities conflict with his or her duties as a judge.

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

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

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



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

790 (e) Principal Office: Locations; Facilities.

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

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

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

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

811 (f) Appointment of Employees, Expenditures of the
812 Alabama Tax Tribunal.



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

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

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

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

831 (g) Jurisdiction of the Alabama Tax Tribunal.

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



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841 pursuant to Chapters 2A, 27, and 29 of this title, Chapters 6,
842 7A, 8, 13, and 20 of Title 32, relating to motor vehicles, or
843 subdivision (2) of this subsection, relating to
844 self-administered counties and municipalities.

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

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

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

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



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869 term "department" as used in Section 40-2A-7 means the
870 governing body of the applicable self-administered county or
871 municipality and not the Department of Revenue, and the term
872 "secretary" as used in Section 40-2A-7 means the clerk of the
873 governing body of the applicable self-administered county or
874 municipality.

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

895 c. Subject to the limitation imposed by paragraph e.,
896 an election-out may be revoked, prospectively, by the



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

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

918 e. A self-administered county or municipality may make
919 only one election-out under paragraph b. or one revocation
920 under paragraph c. during each calendar year. If an appeal is
921 timely filed with the Alabama Tax Tribunal after the notice of
922 an election-out by the self-administered county or
923 municipality is published by the Alabama Tax Tribunal, the
924 appeal shall be deemed timely filed with and transferred to



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925 the self-administered county or municipality. If an appeal is
926 timely filed with a self-administered county or municipality
927 after the notice of revocation by the self-administered county
928 or municipality is published by the Alabama Tax Tribunal, the
929 appeal shall be deemed timely filed with and transferred to
930 the Alabama Tax Tribunal.

931 f. The appeals process for a self-administered county
932 or municipality that has elected to divest the Alabama Tax
933 Tribunal of jurisdiction shall function in a manner similar to
934 the procedures prescribed for appeals to the Alabama Tax
935 Tribunal. The hearing or appeals officer shall function and
936 conduct hearings in a manner similar to the Chief Judge of the
937 Alabama Tax Tribunal and must be impartial and reasonably
938 knowledgeable of the sales, use, rental, and lodgings tax laws
939 and the taxing jurisdiction's applicable code or ordinances.

940 (3) Except as permitted by subsection (m) relating to
941 judicial review, no person shall contest any matter within the
942 jurisdiction of the Alabama Tax Tribunal in any action, suit,
943 or proceeding in any other court of the state. However, such
944 exclusive jurisdiction shall not be required of those
945 self-administered counties and municipalities that choose not
946 to participate under the auspices of the Alabama Tax Tribunal.
947 With the aforementioned exceptions noted, if a person attempts
948 to contest any matter with the remaining jurisdiction, then
949 such action, suit, or proceeding shall be dismissed without
950 prejudice. The improper commencement of any action, suit, or
951 proceeding will not extend the time period for commencing a
952 proceeding in the Alabama Tax Tribunal.



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

959 (5) If, with or after the filing of a timely notice of
960 appeal, the taxpayer pays all or part of the tax or other
961 amount in issue before the Alabama Tax Tribunal has rendered a
962 decision, the Alabama Tax Tribunal shall treat the taxpayer's
963 notice of appeal as a protest of a denial of a claim for
964 refund of the amount so paid.

965 (6) The Alabama Tax Tribunal shall decide questions
966 regarding the constitutionality of the application of statutes
967 to the taxpayer and the constitutionality of regulations
968 ~~promulgated~~adopted by the Department of Revenue, but shall not
969 have the power to declare a statute unconstitutional on its
970 face. A taxpayer desiring to challenge the constitutionality
971 of a statute on its face, at the taxpayer's election, may do
972 so by one of the following methods:

973 a. Commence a declaratory action in the courts of
974 Alabama with respect to the constitutional challenge, and file
975 a notice of appeal with the Alabama Tax Tribunal with respect
976 to the remainder of the matter, which proceeding shall be
977 stayed by the Alabama Tax Tribunal pending final resolution of
978 the constitutional challenge.

979 b. File a notice of appeal with the Alabama Tax
980 Tribunal with respect to issues other than the constitutional



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981 challenge, in which the taxpayer preserves the constitutional
982 challenge until the entire matter, including the
983 constitutional challenge and the facts related to the
984 constitutional challenge, is presented to the appellate court.

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

989 (h) Pleadings.

990 (1) A taxpayer may commence a proceeding in the Alabama
991 Tax Tribunal by filing a notice of appeal protesting the
992 Department of Revenue's determination imposing a liability for
993 tax, penalty, or interest; denying a refund or credit
994 application; canceling, revoking, suspending, or denying an
995 application for a license, permit, or registration; or taking
996 any other action that gives a person the right to a hearing
997 under the law. The notice of appeal shall be filed in
998 accordance with the time periods required by Sections 40-2A-7
999 and 40-2A-8, or any other applicable provision that is within
1000 the jurisdiction of the Alabama Tax Tribunal. For purposes of
1001 this chapter, the term "taxpayer" includes a person: ~~a.~~ (i) who
1002 is challenging the state's jurisdiction over the person; ~~and~~
1003 ~~b.~~ (ii) who has standing to challenge the validity or
1004 applicability of the tax. The notice of appeal filed by the
1005 taxpayer with the Alabama Tax Tribunal shall identify the
1006 final assessment, denied refund, or other act or refusal to
1007 act by the department which is the subject of the appeal, the
1008 position of the appealing party, the basis on which relief



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1009 should be granted, and the relief sought. A notice of appeal
1010 that does not include all of the above information shall be
1011 sufficient to invoke the jurisdiction of the Alabama Tax
1012 Tribunal. The judge may require a taxpayer to file an amended
1013 notice of appeal if more information is deemed necessary.

1014 (2) If the appeal involves a tax levied by or on behalf
1015 of a self-administered county or municipality, the Alabama Tax
1016 Tribunal shall promptly mail a copy of the notice of appeal by
1017 either U.S. mail with delivery confirmation or certified U.S.
1018 mail to the governing body of the affected county or
1019 municipality and shall provide the taxpayer or its authorized
1020 representative with written notification of the date the copy
1021 was mailed to the governing body. The affected county or
1022 municipality shall file a written answer with the Alabama Tax
1023 Tribunal within 45 days of the date of mailing the notice of
1024 appeal to the affected county or municipality. The judge may
1025 allow the county or municipality additional time, not to
1026 exceed 45 days, within which to file an answer. The answer
1027 shall state the facts and the issues involved and the county's
1028 or municipality's position relating thereto. The judge may
1029 require the county or municipality to file an amended answer
1030 if more information is deemed necessary. The county or
1031 municipality and its authorized representatives may consult
1032 with the Legal Division of the Department of Revenue
1033 concerning the appeal.

1034 (3) The Alabama Tax Tribunal shall notify the Legal
1035 Division of the Department of Revenue in writing that an
1036 appeal has been filed and shall mail a copy of such



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1037 notification to the taxpayer or its authorized representative.
1038 The Department of Revenue shall file its answer in the Alabama
1039 Tax Tribunal no later than 45 days after its receipt of the
1040 Alabama Tax Tribunal's notification that the taxpayer has
1041 filed a notice of appeal. Upon written request, the Alabama
1042 Tax Tribunal may grant up to 45 additional days to file an
1043 answer. The Department of Revenue shall serve a copy on the
1044 taxpayer's representative or, if the taxpayer is not
1045 represented, on the taxpayer, and shall file proof of such
1046 service with the answer.

1047 (4) The taxpayer may file a reply in the Alabama Tax
1048 Tribunal within 30 days after receipt of the answer. The
1049 taxpayer shall serve a copy on the authorized representative
1050 of the Department of Revenue and shall file proof of such
1051 service with the reply. When a reply has been filed, or, if no
1052 reply has been filed, then 30 days after the filing of the
1053 answer, the controversy shall be deemed at issue and will be
1054 scheduled for hearing.

1055 (5) Either party may amend a pleading once without
1056 leave at any time before the period for responding to it
1057 expires. After such time, a pleading may be amended only with
1058 the written consent of the adverse party or with the
1059 permission of the Alabama Tax Tribunal. The Alabama Tax
1060 Tribunal shall freely grant consent to amend upon such terms
1061 as may be just. Except as otherwise ordered by the Alabama Tax
1062 Tribunal, there shall be an answer or reply to an amended
1063 pleading if an answer or reply is required to the pleading
1064 being amended. Filing of the answer, or, if the answer has



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1065 already been filed, the amended answer, shall be made no later
1066 than 75 days after filing of the amended notice of appeal.
1067 Filing of the reply or, if the reply has already been filed,
1068 the amended reply, shall be made within 30 days after filing
1069 of the amended answer. The taxpayer may not amend a notice of
1070 appeal after expiration of the time for filing a notice of
1071 appeal, if such amendment would have the effect of conferring
1072 jurisdiction on the Alabama Tax Tribunal over a matter that
1073 would otherwise not come within its jurisdiction. An amendment
1074 of a pleading shall relate back to the time of filing of the
1075 original pleading, unless the Alabama Tax Tribunal shall order
1076 otherwise either on motion of a party or on the Alabama Tax
1077 Tribunal's own initiative.

1078 (i) Fees. No filing fee shall be imposed for any appeal
1079 filed with the Alabama Tax Tribunal.

1080 (j) Discovery and Stipulation.

1081 (1) The parties to a proceeding shall make every effort
1082 to achieve discovery by informal consultation or
1083 communication, before invoking the discovery mechanisms
1084 authorized by this section.

1085 (2) The parties to a proceeding shall stipulate all
1086 relevant and non-privileged matters to the fullest extent to
1087 which complete or qualified agreement can or fairly should be
1088 reached. Neither the existence nor the use of the discovery
1089 mechanisms authorized by this section shall excuse failure to
1090 comply with this provision.

1091 (3) Subject to reasonable limitations prescribed by the
1092 Alabama Tax Tribunal, a party may obtain discovery by written



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1093 interrogatories; requests for the production of returns,
1094 books, papers, documents, correspondence, or other evidence;
1095 depositions of parties, ~~non-party~~nonparty witnesses and
1096 experts; and requests for admissions. The Alabama Tax Tribunal
1097 may provide for other forms of discovery.

1098 (4) A judge of the Alabama Tax Tribunal, on the request
1099 of any party to the proceeding, may issue subpoenas requiring
1100 the attendance of witnesses and giving of testimony and
1101 subpoenas duces tecum requiring the production of evidence or
1102 things.

1103 (5) Any employee of the Alabama Tax Tribunal designated
1104 in writing for the purpose by the chief judge may administer
1105 oaths.

1106 (6) Any witness subpoenaed or whose deposition is taken
1107 shall receive the same fees and mileage as a witness in a
1108 circuit court of Alabama.

1109 (7) The Alabama Tax Tribunal may enforce its orders on
1110 discovery and other procedural issues, among other means, by
1111 deciding issues wholly or partly against the offending party.

1112 (k) Hearings.

1113 (1) Proceedings before the Alabama Tax Tribunal shall
1114 be tried de novo and without a jury.

1115 (2) Except as set forth in this chapter or otherwise
1116 precluded by law, the Alabama Tax Tribunal shall take
1117 evidence, conduct hearings, and issue final and preliminary
1118 orders. An appeal may be held in abeyance at the discretion of
1119 the judge or may be submitted for decision on a joint
1120 stipulation of facts without a hearing or as otherwise agreed



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1121 by the parties. A judge of the Alabama Tax Tribunal, with or
1122 without a hearing, may dismiss any appeal or grant appropriate
1123 relief to any party, if a party refuses to comply with any
1124 regulation or statute concerning appeals before the Alabama
1125 Tax Tribunal or if a party refuses to comply with any
1126 preliminary order directing the party to take such action as
1127 deemed appropriate by a judge of the Alabama Tax Tribunal.

1128 (3) Hearings shall be open to the public and shall be
1129 conducted in accordance with such rules of practice and
1130 procedure as the Alabama Tax Tribunal may ~~promulgate~~adopt.
1131 Notwithstanding the foregoing, on motion of either party, the
1132 Alabama Tax Tribunal shall issue a protective order or an
1133 order closing part or all of the hearing to the public, if the
1134 party shows good cause to protect certain information from
1135 being disclosed to the public.

1136 (4) The Alabama Tax Tribunal shall not be bound by the
1137 rules of evidence applicable to civil cases in the circuit
1138 courts of this state. The Alabama Tax Tribunal shall admit
1139 relevant evidence, including hearsay, if it is probative of a
1140 material fact in controversy. The Alabama Tax Tribunal shall
1141 exclude irrelevant and unduly repetitious evidence.
1142 Notwithstanding the foregoing, the rules of privilege
1143 recognized by law shall apply.

1144 (5) Testimony may be given only on oath or affirmation.

1145 (6) The notice of appeal and other pleadings in the
1146 proceeding shall be deemed to conform to the proof presented
1147 at the hearing, unless a party satisfies the Alabama Tax
1148 Tribunal that presentation of the evidence would unfairly



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1149 prejudice the party in maintaining its position on the merits
1150 or unless deeming the taxpayer's notice of appeal to conform
1151 to the proof would confer jurisdiction on the Alabama Tax
1152 Tribunal over a matter that would not otherwise come within
1153 its jurisdiction.

1154 (7) In the case of an issue of fact, the taxpayer shall
1155 have the burden of persuasion by a preponderance of the
1156 evidence in the record, except that the Department of Revenue
1157 shall have the burden of persuasion in the case of an
1158 assertion of fraud and in other cases provided by law.

1159 (8) Proceedings before the Alabama Tax Tribunal shall
1160 be officially reported. The state shall pay the expense of
1161 reporting from the appropriation for the Alabama Tax Tribunal.

1162 (1) Decisions.

1163 (1) The Alabama Tax Tribunal shall render its decision
1164 in writing, including therein a concise statement of the facts
1165 found and the conclusions of law reached. The Alabama Tax
1166 Tribunal's decision, subject to law, shall grant such relief,
1167 invoke such remedies, and issue such orders as it deems
1168 appropriate to carry out its decision. A judge may enter a
1169 preliminary order directing one or more parties to take such
1170 action as deemed appropriate or referring any issue or issues
1171 in dispute to the Department of Revenue's Taxpayer Advocate
1172 for consideration if the issue or issues relate to a tax
1173 administered by the Department of Revenue. A judge, after a
1174 hearing or after a case is otherwise submitted for decision,
1175 may issue an opinion and preliminary order, which shall
1176 include findings of fact and conclusions of law. The opinion



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1177 and preliminary order may direct the department to recompute a
1178 taxpayer's liability or the amount of a refund due or for any
1179 party to take such action as specified in the preliminary
1180 order.

1181 (2) The Alabama Tax Tribunal shall render its
1182 preliminary or final order, as applicable, no later than six
1183 months after submission of the last brief filed subsequent to
1184 completion of the hearing or, if briefs are not submitted,
1185 then no later than six months after completion of the hearing.
1186 The Alabama Tax Tribunal may extend the six-month period, for
1187 good cause, up to three additional months.

1188 (3) If the Alabama Tax Tribunal fails to render either
1189 a preliminary order or a final order within the prescribed
1190 period, either party may institute a proceeding in the circuit
1191 court to compel the issuance of such decision.

1192 (4) The Alabama Tax Tribunal's decision shall finally
1193 decide the matters in controversy, unless any party to the
1194 matter timely appeals the decision as provided in this
1195 chapter.

1196 (5) Any party may apply for rehearing from any final
1197 order or opinion and preliminary order of the Alabama Tax
1198 Tribunal; provided, however, the application must be filed
1199 within 15 days from the date of entry of such order. The
1200 application for rehearing shall specify the reasons and
1201 supporting arguments why such order is incorrect and should be
1202 reconsidered. The timely filing of an application for
1203 rehearing from a final order shall suspend the time period for
1204 filing an appeal to circuit court as provided in this chapter.



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1205 If an application for rehearing is timely filed, the judge
1206 shall thereafter issue a final or other order on rehearing,
1207 either with or without a hearing on the application, at the
1208 discretion of the judge. The time for filing a notice of
1209 appeal to circuit court shall begin anew on the date of entry
1210 of the final order on rehearing.

1211 (6) The Alabama Tax Tribunal's final order shall have
1212 the same effect, and shall be enforced in the same manner, as
1213 a judgment of a circuit court of the state, unless altered or
1214 amended on appeal or rehearing.

1215 (7) The Alabama Tax Tribunal's interpretation of a
1216 taxing statute subject to contest in one case shall be
1217 followed by the Alabama Tax Tribunal in subsequent cases
1218 involving the same statute, and its application of a statute
1219 to the facts of one case shall be followed by the Alabama Tax
1220 Tribunal in subsequent cases involving similar facts, unless
1221 the Alabama Tax Tribunal's interpretation or application
1222 conflicts with that of an appellate court or the Alabama Tax
1223 Tribunal provides satisfactory reasons for reversing prior
1224 precedent.

1225 (m) Appeals.

1226 (1) Other than an application for rehearing to the
1227 Alabama Tax Tribunal, the exclusive remedy for review of any
1228 final or other appealable order issued by the Alabama Tax
1229 Tribunal shall be by appeal to the appropriate circuit court.

1230 (2) The taxpayer, a self-administered county or
1231 municipality whose tax is within the jurisdiction of the
1232 Alabama Tax Tribunal, or the Department of Revenue may appeal



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1233 to circuit court from a final or other appealable order issued
1234 by the Alabama Tax Tribunal by filing a notice of appeal with
1235 the appropriate circuit court within 30 days from the date the
1236 final or other appealable order was entered. A copy of the
1237 notice of appeal shall be submitted to the Alabama Tax
1238 Tribunal within the 30-day appeal period. The Alabama Tax
1239 Tribunal shall thereafter prepare a record on appeal, which
1240 shall include the orders of the Alabama Tax Tribunal, the
1241 stenographic transcript of the hearing before the Alabama Tax
1242 Tribunal, the pleadings, and all exhibits and documents
1243 admitted into evidence. The appeal shall be filed in the
1244 following circuit courts:

1245 a. Any appeal by the Department of Revenue or a
1246 self-administered county or municipality whose tax is within
1247 the jurisdiction of the Alabama Tax Tribunal shall be filed
1248 with the circuit court of the county in which the taxpayer
1249 resides or has a principal place of business in Alabama.

1250 b. Any appeal by the taxpayer shall be filed with the
1251 Circuit Court of Montgomery County, Alabama, or with the
1252 circuit court of the county in which the taxpayer resides or
1253 has a principal place of business in Alabama.

1254 c. Notwithstanding paragraphs a. and b., if the
1255 taxpayer does not reside in Alabama or have a principal place
1256 of business in Alabama, any appeal by the taxpayer, the
1257 Department of Revenue, or a self-administered county or
1258 municipality whose tax is within the jurisdiction of the
1259 Alabama Tax Tribunal shall be filed with the Circuit Court of
1260 Montgomery County, Alabama.



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1261 (3) If the appeal to circuit court pursuant to
1262 ~~subdivision~~paragraph (2)b. is by a taxpayer from a final order
1263 involving a final assessment, the taxpayer shall, within the
1264 30-day period allowed for appeals, satisfy one of the
1265 requirements under Section 40-2A-7(b)(5)b.2., relating to
1266 appeals to circuit court.

1267 (4) The appeal to circuit court from a final or other
1268 appealable order issued by the Alabama Tax Tribunal shall be a
1269 trial de novo, except that the order shall be presumed prima
1270 facie correct and the burden shall be on the appealing party
1271 to prove otherwise. The circuit court shall hear the case by
1272 its own rules and shall decide all questions of fact and law.
1273 The administrative record and transcript shall be transmitted
1274 to the reviewing court as provided herein and shall be
1275 admitted into evidence in the trial de novo, subject to the
1276 rights of either party to object to any testimony or evidence
1277 in the administrative record or transcript. With the consent
1278 of all parties, judicial review may be on the administrative
1279 record and transcript. The circuit court shall affirm, modify,
1280 or reverse the order of the Alabama Tax Tribunal, with or
1281 without remanding the case for further hearing, as justice may
1282 require.

1283 (n) Representation.

1284 (1) Appearances in proceedings conducted by the Alabama
1285 Tax Tribunal may be by the taxpayer; by an attorney admitted
1286 to practice in this state, including an attorney who is a
1287 partner or member of, or is employed by, an accounting or
1288 other professional services firm; by an accountant licensed in



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1289 this state; or by an authorized representative. The Alabama
1290 Tax Tribunal may allow any attorney or accountant authorized
1291 to practice or licensed in any other jurisdiction of the
1292 United States to appear and represent a taxpayer in
1293 proceedings before the Alabama Tax Tribunal for a particular
1294 matter. In addition, the Alabama Tax Tribunal may
1295 ~~promulgate~~adopt rules ~~and regulations~~ permitting a taxpayer to
1296 be represented by an officer, employee, partner, or member.

1297 (2) The department shall be represented by an
1298 authorized representative in all proceedings before the
1299 Alabama Tax Tribunal.

1300 (o) Publication of Decisions.

1301 The Alabama Tax Tribunal shall index and publish its
1302 final decisions in such print or electronic form as it deems
1303 best adapted for public convenience. Such publications shall
1304 be made permanently available and constitute the official
1305 reports of the Alabama Tax Tribunal.

1306 (p) Service of Process.

1307 (1) Mailing by first class or certified or registered
1308 mail, postage prepaid, to the address of the taxpayer given on
1309 the taxpayer's notice of appeal, or to the address of the
1310 taxpayer's representative of record, if any, or to the usual
1311 place of business of the Department of Revenue, shall
1312 constitute personal service on the other party. The Alabama
1313 Tax Tribunal, by rule, may prescribe that notice by other
1314 means shall constitute personal service and, in a particular
1315 case, may order that notice be given to additional persons or
1316 by other means.



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1317 (2) Mailing by registered or certified mail and
1318 delivery by a private delivery service approved by the
1319 Internal Revenue Service in accordance with ~~Section~~26 U.S.C. §
1320 ~~7502 (f) of the Internal Revenue Code of 1986~~, as amended,
1321 shall be deemed to have occurred, respectively, on the date of
1322 mailing and the date of submission to the private delivery
1323 service.

1324 (3) Timely mailed document considered to be timely
1325 filed.

1326 (q) Rules and Forms.

1327 The Alabama Tax Tribunal is authorized to ~~promulgate~~
1328 ~~and~~ adopt all reasonable rules pursuant to the Alabama
1329 Administrative Procedure Act and forms as may be necessary or
1330 appropriate to carry out the intent and purposes of this
1331 chapter.

1332 (r) Budget of Alabama Tax Tribunal.

1333 The Chief Judge of the Alabama Tax Tribunal may
1334 contract or enter into agreements with any private or
1335 governmental agency, upon approval of the Director of Finance,
1336 for the rental of office space, and the rental or purchase of
1337 equipment, administrative or other support services, supplies,
1338 and all other property or services necessary for the operation
1339 of the Alabama Tax Tribunal. The funds for the operation of
1340 the Alabama Tax Tribunal shall be administered by the Alabama
1341 Tax Tribunal, through the chief judge. ~~With respect to the~~
1342 ~~fiscal year beginning October 1, 2014, there shall be~~
1343 ~~transferred from the Revenue Department Administrative Fund to~~
1344 ~~the Alabama Tax Tribunal the amount of four hundred~~



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1345 ~~twenty-five thousand dollars (\$425,000). The amount~~
1346 ~~transferred from the Revenue Department Administrative Fund~~
1347 ~~shall be disbursed to the Alabama Tax Tribunal in four equal~~
1348 ~~increments, at the beginning of each quarter of the fiscal~~
1349 ~~year. Thereafter, the~~The Chief Judge of the Alabama Tax
1350 Tribunal, shall prepare an annual budget and funds shall be
1351 appropriated annually by the Legislature from the Revenue
1352 Department Administrative Fund to be used exclusively for the
1353 operation of the Alabama Tax Tribunal."

1354 Section 3. Section 1 of this act shall become effective
1355 on October 1, 2025 and Section 2 of this act shall become
1356 effective on June 1, 2025.