

SB174 INTRODUCED



1 SB174
2 XLAP77E-1
3 By Senator Chambliss
4 RFD: County and Municipal Government
5 First Read: 18-Feb-25



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SYNOPSIS:

Under existing law, the Alabama Tax Tribunal has jurisdiction over questions of law and fact arising under the tax laws of this state.

This bill would expand the jurisdiction of the Alabama Tax Tribunal to include appeals of business license tax determinations made by counties or municipalities.

This bill would require counties and municipalities to report certain information to the Department of Revenue concerning business license taxes collected by the county or municipality.

This bill would also provide for a cause of action against any private entity that attempts to collect a business privilege tax or business license tax that the entity knows or should know is not lawfully due.

A BILL
TO BE ENTITLED
AN ACT

Relating to business taxes; to require counties and municipalities to provide certain annual reports on business



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29 license taxes and business privilege taxes collected from
30 businesses; to provide for certain causes of action; to amend
31 Section 40-2B-2, Code of Alabama 1975; and to revise the
32 jurisdiction of the Alabama Tax Tribunal.

33 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

34 Section 1. This act shall be known as the Business
35 License Tax Reporting and Appeals Act.

36 Section 2. The Legislature finds and declares that
37 Alabama's residents and businesses have a right to do business
38 in this state free from excessive regulations or fees, to have
39 clear knowledge of any fees charged to conduct business, and
40 to seek redress against unfair or duplicative taxation.

41 Section 3. (a) Each county and municipality, by March
42 30, shall file an annual fiscal year report with the
43 Department of Revenue containing all of the following
44 information concerning the previous fiscal year:

45 (1) The classifications and schedules for business
46 license taxes.

47 (2) Whether the classifications or schedules changed
48 during the reporting year or will change during the year
49 immediately following the fiscal year covered by the report.

50 (b) The Department of Revenue shall post each report on
51 the department's website.

52 (c) Any municipality or county that fails to comply
53 with subsection (a) shall escrow subsequent business license
54 taxes and business privilege taxes until the municipality or
55 county achieves compliance with subsection (a).

56 Section 4. A taxpayer may appeal any business license



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57 tax or business privilege tax determination of a county or
58 municipality to the Alabama Tax Tribunal as provided in
59 Section 40-2B-2, Code of Alabama 1975.

60 Section 5. (a) A private entity contracted by a county
61 or municipality to audit business privilege taxes or business
62 license taxes may not attempt to collect any business
63 privilege tax or business license tax if the entity knows or
64 should know that the tax is not lawfully due.

65 (b) A person may bring a civil cause of action against
66 any entity that violates subsection (a). In any case where an
67 entity is found to have violated subsection (a), the court
68 shall order the defendant to pay treble damages, court costs,
69 and reasonable attorney fees.

70 (c) Nothing in this section shall be construed as
71 creating or implying a cause of action against a county or
72 municipality, a county or municipal official, a county or
73 municipal employee, or a county or municipal agency, board, or
74 instrumentality.

75 Section 6. Section 40-2B-2, Code of Alabama 1975, is
76 amended to read as follows:

77 "§40-2B-2

78 (a) Statement of Purpose. To increase public confidence
79 in the fairness of the state tax system, the state shall
80 provide an independent agency with tax expertise to resolve
81 disputes between the Department of Revenue and taxpayers,
82 prior to requiring the payment of the amounts in issue or the
83 posting of a bond, but after the taxpayer has had a full
84 opportunity to attempt settlement with the Department of



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85 Revenue based, among other things, on the hazards of
86 litigation. By establishing an independent Alabama Tax
87 Tribunal within the executive branch of government, this
88 chapter provides taxpayers with a means of resolving
89 controversies that insures both the appearance and the reality
90 of due process and fundamental fairness.

91 The tax tribunal shall provide hearings in all tax
92 matters, except those specified by statute, and render
93 decisions and orders relating thereto. A tax tribunal hearing
94 shall be commenced by the filing of a notice of appeal
95 protesting a tax determination made by the Department of
96 Revenue, including any determination that cancels, revokes,
97 suspends, or denies an application for a license, permit, or
98 registration. A final decision of the tax tribunal shall have
99 the same force and effect as, and shall be subject to appeal
100 in the same manner as, a final decision of a state circuit
101 court.

102 It is the intent of the Legislature that this chapter
103 foster the settlement or other resolution of tax disputes to
104 the extent possible and, in cases in which litigation is
105 necessary, to provide the people of Alabama with a fair and
106 independent dispute resolution forum with the Department of
107 Revenue. The chapter shall be interpreted and construed to
108 further this intent.

109 (b) Tax Tribunal: Establishment.

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



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113 (2) The Alabama Tax Tribunal shall be separate from and
114 independent of the authority of the Commissioner of Revenue
115 and the Department of Revenue. For purposes of this chapter,
116 the term "Department of Revenue" means the Alabama Department
117 of Revenue and does not include the governing body of any
118 self-administered county or municipality.

119 (3) The Alabama Tax Tribunal shall be created and exist
120 as of October 1, 2014, but the chief judge shall be appointed
121 by July 1, 2014, to take any action that is necessary to
122 enable the Alabama Tax Tribunal to properly exercise the
123 duties, functions, and powers given the Alabama Tax Tribunal
124 under this chapter.

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

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

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

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

138 (2) The judges of the Alabama Tax Tribunal shall be
139 appointed by the Governor for a term of 6 years. If the
140 tribunal has more than one judge, the judges initially



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141 appointed should be given terms of different lengths not
142 exceeding 6 years, so that all judges' terms do not expire in
143 the same year.

144 (3) The Chief Judge of the Alabama Tax Tribunal shall
145 receive such salary as is provided from time to time at the
146 top pay scale within Pay Grade 88 of the compensation plan of
147 the state Merit System. Associate judges shall receive such
148 salary as is provided from time to time within Pay Grade 84 of
149 the compensation plan of the state Merit System, as determined
150 by the chief judge. The judges shall receive no other monetary
151 compensation. This subsection shall neither increase nor
152 decrease the salary received by the chief administrative law
153 judge of the Department of Revenue, who shall become the
154 initial Chief Judge of the Alabama Tax Tribunal pursuant to
155 this chapter.

156 (4) Once appointed and confirmed, the judge shall
157 continue in office until his or her term expires and until a
158 successor has been appointed, unless otherwise removed as
159 provided herein.

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

163 (6) If more than one judge is appointed, the Governor
164 shall designate one of the members as chief judge, in this
165 chapter referred to as the "chief judge." The chief judge
166 shall be the executive of the Alabama Tax Tribunal, shall have
167 sole charge of the administration of the Alabama Tax Tribunal,
168 and shall apportion among the judges all causes, matters, and



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169 proceedings coming before the Alabama Tax Tribunal. The
170 individual designated as chief judge shall serve in that
171 capacity at the pleasure of the Governor.

172 (7) The Governor, subject to the dismissal provisions
173 of a classified state employee as provided in Section
174 36-26-10, may remove a judge, after notice and an opportunity
175 to be heard, for neglect of duty, inability to perform duties,
176 or malfeasance in office.

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

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

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

194 (1) Each judge of the Alabama Tax Tribunal shall be a
195 citizen of the United States and, during the period of his or
196 her service, a resident of this state. No person shall be



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197 appointed as a judge, unless at the time of appointment, the
198 individual has substantial knowledge of the tax law and
199 substantial experience making the record in a tax case
200 suitable for judicial review.

201 (2) Before entering upon the duties of office, each
202 judge shall take and subscribe to an oath or affirmation that
203 he or she will faithfully discharge the duties of the office,
204 and such oath shall be filed in the office of the Secretary of
205 State.

206 (3) Each judge shall devote his or her full time during
207 business hours to the duties of his or her office. A judge
208 shall not engage in any other gainful employment or business,
209 nor hold another office or position of profit in a government
210 of this state, any other state, or the United States.
211 Notwithstanding the foregoing provisions, a judge may own
212 passive interests in business entities and earn income from
213 incidental teaching or scholarly activities unless the
214 activities conflict with his or her duties as a judge.

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

222 (5) Alabama Tax Tribunal Judges shall be classified
223 state employees as provided in Section 36-26-10. As such, a
224 judge, except for appointment, reconfirmation, removal, and



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225 dismissal as provided herein, shall be entitled to all
226 benefits and protections available to classified state
227 employees.

228 (6) The chief judge may employ one Executive Assistant
229 III as an unclassified service state employee, as provided in
230 Section 36-26-10(c). All other Alabama Tax Tribunal personnel
231 shall be appointed or hired by the chief judge, as necessary
232 for the proper operation of the Alabama Tax Tribunal and shall
233 be state employees under the state Merit System. The Executive
234 Assistant III employed in the Administrative Law Division as
235 of September 30, 2014, shall be transferred to the Alabama Tax
236 Tribunal, along with any other Merit System employees employed
237 by the Administrative Law Division on that date.

238 (e) Principal Office: Locations; Facilities.

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

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

247 (3) If the appeal involves a tax levied by or on behalf
248 of only one self-administered county or municipality, the
249 Alabama Tax Tribunal, if so requested by the self-administered
250 county or municipality or the taxpayer, shall hold the hearing
251 either in the county seat of the affected county or the county
252 seat of the county in which the affected municipality is



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253 located or in the appropriate Department of Revenue taxpayer
254 service center, according to the proximity of such
255 municipality or county to the taxpayer service center.

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

259 (f) Appointment of Employees, Expenditures of the
260 Alabama Tax Tribunal.

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

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

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

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

279 (g) Jurisdiction of the Alabama Tax Tribunal.

280 (1) Except as permitted by subsection (m) relating to



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281 judicial review, or the Constitution of Alabama of ~~1901~~2022,
282 the Alabama Tax Tribunal shall be the sole, exclusive, and
283 final authority for the hearing and determination of questions
284 of law and fact arising under the tax laws of this state. The
285 Alabama Tax Tribunal shall have jurisdiction to hear and
286 determine all appeals pending before the Department of
287 Revenue's Administrative Law Division on October 1, 2014, and
288 all subsequent appeals filed with the Alabama Tax Tribunal
289 pursuant to Chapters 2A, 27, and 29 of this title, Chapters 6,
290 7A, 8, 13, and 20 of Title 32, relating to motor vehicles, ~~or~~;
291 subdivision (2) of this subsection, relating to
292 self-administered counties and municipalities; or Section
293 11-51-90, relating to the license of trades, businesses,
294 professions, or other similar activities.

295 a. However, except for license taxes or fees charged
296 under Section 11-51-90, such jurisdiction shall also be
297 limited to only those self-administered counties and
298 municipalities that choose to participate under the auspices
299 of the Alabama Tax Tribunal.

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

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



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309 (2) a. Unless a self-administered county or
310 municipality elects, in the manner prescribed below, to divest
311 the Alabama Tax Tribunal of jurisdiction over appeals of final
312 assessments or denied refunds in whole or in part, of any
313 sales, use, rental, or lodgings taxes levied or collected from
314 time to time by or on behalf of the self-administered county
315 or municipality, a taxpayer may appeal a final assessment or
316 denied refund involving any such tax to the Alabama Tax
317 Tribunal in accordance with the procedures and requirements
318 provided in Section 40-2A-7 and this chapter. For purposes of
319 any appeal filed by a taxpayer pursuant to this section, the
320 term "department" as used in Section 40-2A-7 means the
321 governing body of the applicable self-administered county or
322 municipality and not the Department of Revenue, and the term
323 "secretary" as used in Section 40-2A-7 means the clerk of the
324 governing body of the applicable self-administered county or
325 municipality.

326 b. Subject to the limitation imposed by paragraph e.,
327 the election-out under this section shall be made by serving a
328 copy of the ordinance or resolution evidencing the
329 election-out, adopted by the governing body of the
330 self-administered county or municipality pursuant to this
331 section, with the Alabama Tax Tribunal. Service may be
332 accomplished by mailing a copy of the ordinance or resolution,
333 certified by an appropriate official, by either U.S. mail with
334 delivery confirmation or certified U.S. mail, return receipt
335 requested, by hand delivery, or by an expedited courier
336 service to the Alabama Tax Tribunal's office. The Alabama Tax



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337 Tribunal shall promptly publish notice of the election-out
338 pursuant to paragraph d., and the election shall be effective
339 on the date that notice is published. Notwithstanding the
340 foregoing, appeals of final assessments or denied refunds
341 involving the electing county or municipality that were
342 pending before the Alabama Tax Tribunal on the date that
343 notice of the election-out is published shall continue to be
344 heard and decided by the Alabama Tax Tribunal as if the
345 election-out had not been made.

346 c. Subject to the limitation imposed by paragraph e.,
347 an election-out may be revoked, prospectively, by the
348 governing body of the self-administered county or municipality
349 at any time by resolution or ordinance, a certified copy of
350 which shall be served on the Alabama Tax Tribunal in the
351 manner prescribed above. The revocation of an election-out
352 vests jurisdiction in the Alabama Tax Tribunal over all
353 appeals of final assessments or denied refunds, in whole or in
354 part, of the county's or municipality's sales, use, rental,
355 and lodgings taxes that are entered or denied on or after the
356 date that notice of revocation is published by the Alabama Tax
357 Tribunal.

358 d. At least once a month, the Alabama Tax Tribunal
359 shall provide the Department of Revenue with a list of all
360 self-administered counties and municipalities that have
361 elected-out pursuant to paragraph b. or that have filed a
362 notice of revocation of their election-out pursuant to
363 paragraph c. The Department of Revenue shall publish the list
364 on its website and otherwise make available to the public in



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365 the same manner that the rates and administrators of certain
366 county and municipal taxes are published by the Department of
367 Revenue. The Alabama Tax Tribunal may also publish the list on
368 its own website.

369 e. A self-administered county or municipality may make
370 only one election-out under paragraph b. or one revocation
371 under paragraph c. during each calendar year. If an appeal is
372 timely filed with the Alabama Tax Tribunal after the notice of
373 an election-out by the self-administered county or
374 municipality is published by the Alabama Tax Tribunal, the
375 appeal shall be deemed timely filed with and transferred to
376 the self-administered county or municipality. If an appeal is
377 timely filed with a self-administered county or municipality
378 after the notice of revocation by the self-administered county
379 or municipality is published by the Alabama Tax Tribunal, the
380 appeal shall be deemed timely filed with and transferred to
381 the Alabama Tax Tribunal.

382 f. The appeals process for a self-administered county
383 or municipality that has elected to divest the Alabama Tax
384 Tribunal of jurisdiction shall function in a manner similar to
385 the procedures prescribed for appeals to the Alabama Tax
386 Tribunal. The hearing or appeals officer shall function and
387 conduct hearings in a manner similar to the Chief Judge of the
388 Alabama Tax Tribunal and must be impartial and reasonably
389 knowledgeable of the sales, use, rental, and lodgings tax laws
390 and the taxing jurisdiction's applicable code or ordinances.

391 (3) Except as permitted by subsection (m) relating to
392 judicial review, no person shall contest any matter within the



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393 jurisdiction of the Alabama Tax Tribunal in any action, suit,
394 or proceeding in any other court of the state. However, such
395 exclusive jurisdiction shall not be required of those
396 self-administered counties and municipalities that choose not
397 to participate under the auspices of the Alabama Tax Tribunal.
398 With the aforementioned exceptions noted, if a person attempts
399 to contest any matter with the remaining jurisdiction, then
400 such action, suit, or proceeding shall be dismissed without
401 prejudice. The improper commencement of any action, suit, or
402 proceeding will not extend the time period for commencing a
403 proceeding in the Alabama Tax Tribunal.

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

410 (5) If, with or after the filing of a timely notice of
411 appeal, the taxpayer pays all or part of the tax or other
412 amount in issue before the Alabama Tax Tribunal has rendered a
413 decision, the Alabama Tax Tribunal shall treat the taxpayer's
414 notice of appeal as a protest of a denial of a claim for
415 refund of the amount so paid.

416 (6) The Alabama Tax Tribunal shall decide questions
417 regarding the constitutionality of the application of statutes
418 to the taxpayer and the constitutionality of regulations
419 promulgated by the Department of Revenue, but shall not have
420 the power to declare a statute unconstitutional on its face. A



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421 taxpayer desiring to challenge the constitutionality of a
422 statute on its face, at the taxpayer's election, may do so by
423 one of the following methods:

424 a. Commence a declaratory action in the courts of
425 Alabama with respect to the constitutional challenge, and file
426 a notice of appeal with the Alabama Tax Tribunal with respect
427 to the remainder of the matter, which proceeding shall be
428 stayed by the Alabama Tax Tribunal pending final resolution of
429 the constitutional challenge.

430 b. File a notice of appeal with the Alabama Tax
431 Tribunal with respect to issues other than the constitutional
432 challenge, in which the taxpayer preserves the constitutional
433 challenge until the entire matter, including the
434 constitutional challenge and the facts related to the
435 constitutional challenge, is presented to the appellate court.

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

440 (h) Pleadings.

441 (1) A taxpayer may commence a proceeding in the Alabama
442 Tax Tribunal by filing a notice of appeal protesting the
443 Department of Revenue's determination imposing a liability for
444 tax, penalty, or interest; denying a refund or credit
445 application; canceling, revoking, suspending, or denying an
446 application for a license, permit, or registration; or taking
447 any other action that gives a person the right to a hearing
448 under the law. The notice of appeal shall be filed in



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449 accordance with the time periods required by Sections 40-2A-7
450 and 40-2A-8, or any other applicable provision that is within
451 the jurisdiction of the Alabama Tax Tribunal. For purposes of
452 this chapter, the term "taxpayer" includes a person a. who is
453 challenging the state's jurisdiction over the person, and b.
454 who has standing to challenge the validity or applicability of
455 the tax. The notice of appeal filed by the taxpayer with the
456 Alabama Tax Tribunal shall identify the final assessment,
457 denied refund, or other act or refusal to act by the
458 department which is the subject of the appeal, the position of
459 the appealing party, the basis on which relief should be
460 granted, and the relief sought. A notice of appeal that does
461 not include all of the above information shall be sufficient
462 to invoke the jurisdiction of the Alabama Tax Tribunal. The
463 judge may require a taxpayer to file an amended notice of
464 appeal if more information is deemed necessary.

465 (2) If the appeal involves a tax levied by or on behalf
466 of a self-administered county or municipality, the Alabama Tax
467 Tribunal shall promptly mail a copy of the notice of appeal by
468 either U.S. mail with delivery confirmation or certified U.S.
469 mail to the governing body of the affected county or
470 municipality and shall provide the taxpayer or its authorized
471 representative with written notification of the date the copy
472 was mailed to the governing body. The affected county or
473 municipality shall file a written answer with the Alabama Tax
474 Tribunal within 45 days of the date of mailing the notice of
475 appeal to the affected county or municipality. The judge may
476 allow the county or municipality additional time, not to



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477 exceed 45 days, within which to file an answer. The answer
478 shall state the facts and the issues involved and the county's
479 or municipality's position relating thereto. The judge may
480 require the county or municipality to file an amended answer
481 if more information is deemed necessary. The county or
482 municipality and its authorized representatives may consult
483 with the Legal Division of the Department of Revenue
484 concerning the appeal.

485 (3) The Alabama Tax Tribunal shall notify the Legal
486 Division of the Department of Revenue in writing that an
487 appeal has been filed and shall mail a copy of such
488 notification to the taxpayer or its authorized representative.
489 The Department of Revenue shall file its answer in the Alabama
490 Tax Tribunal no later than 45 days after its receipt of the
491 Alabama Tax Tribunal's notification that the taxpayer has
492 filed a notice of appeal. Upon written request, the Alabama
493 Tax Tribunal may grant up to 45 additional days to file an
494 answer. The Department of Revenue shall serve a copy on the
495 taxpayer's representative or, if the taxpayer is not
496 represented, on the taxpayer, and shall file proof of such
497 service with the answer.

498 (4) The taxpayer may file a reply in the Alabama Tax
499 Tribunal within 30 days after receipt of the answer. The
500 taxpayer shall serve a copy on the authorized representative
501 of the Department of Revenue and shall file proof of such
502 service with the reply. When a reply has been filed, or, if no
503 reply has been filed, then 30 days after the filing of the
504 answer, the controversy shall be deemed at issue and will be



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505 scheduled for hearing.

506 (5) Either party may amend a pleading once without
507 leave at any time before the period for responding to it
508 expires. After such time, a pleading may be amended only with
509 the written consent of the adverse party or with the
510 permission of the Alabama Tax Tribunal. The Alabama Tax
511 Tribunal shall freely grant consent to amend upon such terms
512 as may be just. Except as otherwise ordered by the Alabama Tax
513 Tribunal, there shall be an answer or reply to an amended
514 pleading if an answer or reply is required to the pleading
515 being amended. Filing of the answer, or, if the answer has
516 already been filed, the amended answer, shall be made no later
517 than 75 days after filing of the amended notice of appeal.
518 Filing of the reply or, if the reply has already been filed,
519 the amended reply, shall be made within 30 days after filing
520 of the amended answer. The taxpayer may not amend a notice of
521 appeal after expiration of the time for filing a notice of
522 appeal, if such amendment would have the effect of conferring
523 jurisdiction on the Alabama Tax Tribunal over a matter that
524 would otherwise not come within its jurisdiction. An amendment
525 of a pleading shall relate back to the time of filing of the
526 original pleading, unless the Alabama Tax Tribunal shall order
527 otherwise either on motion of a party or on the Alabama Tax
528 Tribunal's own initiative.

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

531 (j) Discovery and Stipulation.

532 (1) The parties to a proceeding shall make every effort



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533 to achieve discovery by informal consultation or
534 communication, before invoking the discovery mechanisms
535 authorized by this section.

536 (2) The parties to a proceeding shall stipulate all
537 relevant and non-privileged matters to the fullest extent to
538 which complete or qualified agreement can or fairly should be
539 reached. Neither the existence nor the use of the discovery
540 mechanisms authorized by this section shall excuse failure to
541 comply with this provision.

542 (3) Subject to reasonable limitations prescribed by the
543 Alabama Tax Tribunal, a party may obtain discovery by written
544 interrogatories; requests for the production of returns,
545 books, papers, documents, correspondence, or other evidence;
546 depositions of parties, non-party witnesses and experts; and
547 requests for admissions. The Alabama Tax Tribunal may provide
548 for other forms of discovery.

549 (4) A judge of the Alabama Tax Tribunal, on the request
550 of any party to the proceeding, may issue subpoenas requiring
551 the attendance of witnesses and giving of testimony and
552 subpoenas duces tecum requiring the production of evidence or
553 things.

554 (5) Any employee of the Alabama Tax Tribunal designated
555 in writing for the purpose by the chief judge may administer
556 oaths.

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

560 (7) The Alabama Tax Tribunal may enforce its orders on



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561 discovery and other procedural issues, among other means, by
562 deciding issues wholly or partly against the offending party.

563 (k) Hearings.

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

566 (2) Except as set forth in this chapter or otherwise
567 precluded by law, the Alabama Tax Tribunal shall take
568 evidence, conduct hearings, and issue final and preliminary
569 orders. An appeal may be held in abeyance at the discretion of
570 the judge or may be submitted for decision on a joint
571 stipulation of facts without a hearing or as otherwise agreed
572 by the parties. A judge of the Alabama Tax Tribunal, with or
573 without a hearing, may dismiss any appeal or grant appropriate
574 relief to any party, if a party refuses to comply with any
575 regulation or statute concerning appeals before the Alabama
576 Tax Tribunal or if a party refuses to comply with any
577 preliminary order directing the party to take such action as
578 deemed appropriate by a judge of the Alabama Tax Tribunal.

579 (3) Hearings shall be open to the public and shall be
580 conducted in accordance with such rules of practice and
581 procedure as the Alabama Tax Tribunal may promulgate.
582 Notwithstanding the foregoing, on motion of either party, the
583 Alabama Tax Tribunal shall issue a protective order or an
584 order closing part or all of the hearing to the public, if the
585 party shows good cause to protect certain information from
586 being disclosed to the public.

587 (4) The Alabama Tax Tribunal shall not be bound by the
588 rules of evidence applicable to civil cases in the circuit



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589 courts of this state. The Alabama Tax Tribunal shall admit
590 relevant evidence, including hearsay, if it is probative of a
591 material fact in controversy. The Alabama Tax Tribunal shall
592 exclude irrelevant and unduly repetitious evidence.
593 Notwithstanding the foregoing, the rules of privilege
594 recognized by law shall apply.

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

596 (6) The notice of appeal and other pleadings in the
597 proceeding shall be deemed to conform to the proof presented
598 at the hearing, unless a party satisfies the Alabama Tax
599 Tribunal that presentation of the evidence would unfairly
600 prejudice the party in maintaining its position on the merits
601 or unless deeming the taxpayer's notice of appeal to conform
602 to the proof would confer jurisdiction on the Alabama Tax
603 Tribunal over a matter that would not otherwise come within
604 its jurisdiction.

605 (7) In the case of an issue of fact, the taxpayer shall
606 have the burden of persuasion by a preponderance of the
607 evidence in the record, except that the Department of Revenue
608 shall have the burden of persuasion in the case of an
609 assertion of fraud and in other cases provided by law.

610 (8) Proceedings before the Alabama Tax Tribunal shall
611 be officially reported. The state shall pay the expense of
612 reporting from the appropriation for the Alabama Tax Tribunal.

613 (1) Decisions.

614 (1) The Alabama Tax Tribunal shall render its decision
615 in writing, including therein a concise statement of the facts
616 found and the conclusions of law reached. The Alabama Tax



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617 Tribunal's decision, subject to law, shall grant such relief,
618 invoke such remedies, and issue such orders as it deems
619 appropriate to carry out its decision. A judge may enter a
620 preliminary order directing one or more parties to take such
621 action as deemed appropriate or referring any issue or issues
622 in dispute to the Department of Revenue's Taxpayer Advocate
623 for consideration if the issue or issues relate to a tax
624 administered by the Department of Revenue. A judge, after a
625 hearing or after a case is otherwise submitted for decision,
626 may issue an opinion and preliminary order, which shall
627 include findings of fact and conclusions of law. The opinion
628 and preliminary order may direct the department to recompute a
629 taxpayer's liability or the amount of a refund due or for any
630 party to take such action as specified in the preliminary
631 order.

632 (2) The Alabama Tax Tribunal shall render its
633 preliminary or final order, as applicable, no later than six
634 months after submission of the last brief filed subsequent to
635 completion of the hearing or, if briefs are not submitted,
636 then no later than six months after completion of the hearing.
637 The Alabama Tax Tribunal may extend the six-month period, for
638 good cause, up to three additional months.

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

643 (4) The Alabama Tax Tribunal's decision shall finally
644 decide the matters in controversy, unless any party to the



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645 matter timely appeals the decision as provided in this
646 chapter.

647 (5) Any party may apply for rehearing from any final
648 order or opinion and preliminary order of the Alabama Tax
649 Tribunal; provided, however, the application must be filed
650 within 15 days from the date of entry of such order. The
651 application for rehearing shall specify the reasons and
652 supporting arguments why such order is incorrect and should be
653 reconsidered. The timely filing of an application for
654 rehearing from a final order shall suspend the time period for
655 filing an appeal to circuit court as provided in this chapter.
656 If an application for rehearing is timely filed, the judge
657 shall thereafter issue a final or other order on rehearing,
658 either with or without a hearing on the application, at the
659 discretion of the judge. The time for filing a notice of
660 appeal to circuit court shall begin anew on the date of entry
661 of the final order on rehearing.

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

666 (7) The Alabama Tax Tribunal's interpretation of a
667 taxing statute subject to contest in one case shall be
668 followed by the Alabama Tax Tribunal in subsequent cases
669 involving the same statute, and its application of a statute
670 to the facts of one case shall be followed by the Alabama Tax
671 Tribunal in subsequent cases involving similar facts, unless
672 the Alabama Tax Tribunal's interpretation or application



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673 conflicts with that of an appellate court or the Alabama Tax
674 Tribunal provides satisfactory reasons for reversing prior
675 precedent.

676 (m) Appeals.

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

681 (2) The taxpayer, a self-administered county or
682 municipality whose tax is within the jurisdiction of the
683 Alabama Tax Tribunal, or the Department of Revenue may appeal
684 to circuit court from a final or other appealable order issued
685 by the Alabama Tax Tribunal by filing a notice of appeal with
686 the appropriate circuit court within 30 days from the date the
687 final or other appealable order was entered. A copy of the
688 notice of appeal shall be submitted to the Alabama Tax
689 Tribunal within the 30-day appeal period. The Alabama Tax
690 Tribunal shall thereafter prepare a record on appeal, which
691 shall include the orders of the Alabama Tax Tribunal, the
692 stenographic transcript of the hearing before the Alabama Tax
693 Tribunal, the pleadings, and all exhibits and documents
694 admitted into evidence. The appeal shall be filed in the
695 following circuit courts:

696 a. Any appeal by the Department of Revenue or a
697 self-administered county or municipality whose tax is within
698 the jurisdiction of the Alabama Tax Tribunal shall be filed
699 with the circuit court of the county in which the taxpayer
700 resides or has a principal place of business in Alabama.



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701 b. Any appeal by the taxpayer shall be filed with the
702 Circuit Court of Montgomery County, Alabama, or with the
703 circuit court of the county in which the taxpayer resides or
704 has a principal place of business in Alabama.

705 c. Notwithstanding paragraphs a. and b., if the
706 taxpayer does not reside in Alabama or have a principal place
707 of business in Alabama, any appeal by the taxpayer, the
708 Department of Revenue, or a self-administered county or
709 municipality whose tax is within the jurisdiction of the
710 Alabama Tax Tribunal shall be filed with the Circuit Court of
711 Montgomery County, Alabama.

712 (3) If the appeal to circuit court pursuant to
713 subdivision (2)b. is by a taxpayer from a final order
714 involving a final assessment, the taxpayer shall, within the
715 30-day period allowed for appeals, satisfy one of the
716 requirements under Section 40-2A-7(b)(5)b.2., relating to
717 appeals to circuit court.

718 (4) The appeal to circuit court from a final or other
719 appealable order issued by the Alabama Tax Tribunal shall be a
720 trial de novo, except that the order shall be presumed prima
721 facie correct and the burden shall be on the appealing party
722 to prove otherwise. The circuit court shall hear the case by
723 its own rules and shall decide all questions of fact and law.
724 The administrative record and transcript shall be transmitted
725 to the reviewing court as provided herein and shall be
726 admitted into evidence in the trial de novo, subject to the
727 rights of either party to object to any testimony or evidence
728 in the administrative record or transcript. With the consent



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729 of all parties, judicial review may be on the administrative
730 record and transcript. The circuit court shall affirm, modify,
731 or reverse the order of the Alabama Tax Tribunal, with or
732 without remanding the case for further hearing, as justice may
733 require.

734 (n) Representation.

735 (1) Appearances in proceedings conducted by the Alabama
736 Tax Tribunal may be by the taxpayer; by an attorney admitted
737 to practice in this state, including an attorney who is a
738 partner or member of, or is employed by, an accounting or
739 other professional services firm; by an accountant licensed in
740 this state; or by an authorized representative. The Alabama
741 Tax Tribunal may allow any attorney or accountant authorized
742 to practice or licensed in any other jurisdiction of the
743 United States to appear and represent a taxpayer in
744 proceedings before the Alabama Tax Tribunal for a particular
745 matter. In addition, the Alabama Tax Tribunal may promulgate
746 rules and regulations permitting a taxpayer to be represented
747 by an officer, employee, partner, or member.

748 (2) The department shall be represented by an
749 authorized representative in all proceedings before the
750 Alabama Tax Tribunal.

751 (o) Publication of Decisions.

752 The Alabama Tax Tribunal shall index and publish its
753 final decisions in such print or electronic form as it deems
754 best adapted for public convenience. Such publications shall
755 be made permanently available and constitute the official
756 reports of the Alabama Tax Tribunal.



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757 (p) Service of Process.

758 (1) Mailing by first class or certified or registered
759 mail, postage prepaid, to the address of the taxpayer given on
760 the taxpayer's notice of appeal, or to the address of the
761 taxpayer's representative of record, if any, or to the usual
762 place of business of the Department of Revenue, shall
763 constitute personal service on the other party. The Alabama
764 Tax Tribunal, by rule, may prescribe that notice by other
765 means shall constitute personal service and, in a particular
766 case, may order that notice be given to additional persons or
767 by other means.

768 (2) Mailing by registered or certified mail and
769 delivery by a private delivery service approved by the
770 Internal Revenue Service in accordance with Section 7502(f) of
771 the Internal Revenue Code of 1986, as amended, shall be deemed
772 to have occurred, respectively, on the date of mailing and the
773 date of submission to the private delivery service.

774 (3) Timely mailed document considered to be timely
775 filed.

776 (q) Rules and Forms.

777 The Alabama Tax Tribunal is authorized to promulgate
778 and adopt all reasonable rules pursuant to the Alabama
779 Administrative Procedure Act and forms as may be necessary or
780 appropriate to carry out the intent and purposes of this
781 chapter.

782 (r) Budget of Alabama Tax Tribunal.

783 The Chief Judge of the Alabama Tax Tribunal may
784 contract or enter into agreements with any private or



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785 governmental agency, upon approval of the Director of Finance,
786 for the rental of office space, and the rental or purchase of
787 equipment, administrative or other support services, supplies,
788 and all other property or services necessary for the operation
789 of the Alabama Tax Tribunal. The funds for the operation of
790 the Alabama Tax Tribunal shall be administered by the Alabama
791 Tax Tribunal, through the chief judge. With respect to the
792 fiscal year beginning October 1, 2014, there shall be
793 transferred from the Revenue Department Administrative Fund to
794 the Alabama Tax Tribunal the amount of four hundred
795 twenty-five thousand dollars (\$425,000). The amount
796 transferred from the Revenue Department Administrative Fund
797 shall be disbursed to the Alabama Tax Tribunal in four equal
798 increments, at the beginning of each quarter of the fiscal
799 year. Thereafter, the Chief Judge of the Alabama Tax Tribunal,
800 shall prepare an annual budget and funds shall be appropriated
801 annually by the Legislature from the Revenue Department
802 Administrative Fund to be used exclusively for the operation
803 of the Alabama Tax Tribunal."

804 Section 7. This act shall become effective on October
805 1, 2025.