

# myStateTaxOffice

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## House bill establishes an Illinois tax tribunal

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### **Update:** Illinois – Tax Tribunal delayed until 2014

Enacted on June 19, 2013, [S.B. 1329](#) provides that the Illinois Independent Tax Tribunal will exercise jurisdiction on and after January 1, 2014. The Tribunal previously had been authorized to exercise its jurisdiction on and after July 1, 2013. All taxpayers that file an administrative protest with the Department of Revenue after June 1, 2013, that would been subject to the jurisdiction of the Tax Tribunal had it been operational on July 1, 2013, may elect to move their case to the Tax Tribunal. The election to move to the Tax Tribunal must take place after January 1, 2014, but no later than February 1, 2014.

**Update:** On August 28, 2012, Governor Quinn signed H.B. 5192. Since the May filing of H.B. 5192 summarized below, [House Amendment 3](#) enacted the following minor amendments to H.B. 5192:

- Limits the Tribunal's authority filing final decisions, the original version of bill allowed for the Tribunal to issue final and interlocutory decisions;
- Removes of date-specific references for matters not under jurisdiction of the Tribunal; and
- Clarifies that a taxpayer may file either a petition or a protest.



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On May 22, 2012, House Amendment #1 was filed to [H.B. 5192](#), which establishes the Illinois tax Tribunal Act of 2012. This Act will fulfill the mandate to establish a Tax Tribunal as authorized by Public Act 097-0636, enacted December 16, 2011. For more information on Public Act 097-0636, view our [mySTO summary](#).

## In general

- The Tribunal is established as an independent agency separate from the Illinois Department of Revenue ("DOR").
- The Tribunal is comprised of no more than four administrative law judges, appointed by the Governor with the advice and consent of the Senate.
  - One judge will serve as the Chief Administrative Judge.
  - The Chief Judge will serve a five year term and the other judges will have staggered four year terms.
  - An ALJ must be an individual licensed to practice law in Illinois for a minimum of eight years with "substantial knowledge of State tax laws and the making of a record in a tax case suitable for judicial review."
- The Tribunal's principal offices are in Sangamon County and Cook County.

## Tribunal's jurisdiction

- The Tribunal's jurisdiction generally begins on July 1, 2013, though certain proceedings may commence prior to that date by taxpayer election.
- Generally, the Tribunal has original jurisdiction over most determinations of the DOR where notices of deficiency or refund denials exceed \$15,000.
  - Section 1-45(a) of H.B. 5192 provides all of the taxes within the Tribunal's jurisdiction. They include the Illinois Income Tax and the four sales/use taxes (ROT/SOT/SUT/UT). A full list of taxes under the jurisdiction of the Tribunal is included in the attached Appendix.
  - Section 1-45(e) of H.B. 5192 lists all of the items that the Tribunal does not have jurisdiction to review. This prohibition includes assessments made under the Property Tax Code.
- The Tribunal does not have the power to declare a statute or rule unconstitutional.

## Proceedings

- With some exceptions, prior to July 1, 2013, a taxpayer disagreeing with a notice of deficiency or refund denial files a protest with the DOR to reconsider the proposed assessment. Generally, on and after July 1, 2013, all protests of a notice of deficiency and refund denials subject to the Tribunal's jurisdiction must be filed with the Tribunal.

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- Upon motion, the Tribunal may require a taxpayer to post a 25% bond upon a showing that the taxpayer's appeal is frivolous or if the taxpayer is acting primarily for the purpose of delaying the collection of tax.
  - Final decisions may be appealed directly to the Appellate Court by the taxpayer as well as the DOR
  - Taxpayers may represent themselves or be represented by an attorney licensed in Illinois - or licensed in another state if approved by the Tribunal.
  - Hearings are public, but taxpayers may petition to close portions of the hearing for good cause.
  - Appeal through the Protest Monies Act remains a viable option for taxpayers.
  - The Tribunal filing fee is \$500. A taxpayer does not have to prepay its assessment to enter into proceedings with the Tribunal.
  - During the Tribunal proceedings, the parties may jointly petition the Tribunal for mediation.

## *Appendix*

### **All Taxes within the Tribunal's Original Jurisdiction**

#### **Section 1-45(a) of H.B. 5192**

**The Tribunal has original jurisdiction over all determinations of the DOR reflected on a Notice of Deficiency, Notice of Tax Liability, Notice of Claim Denial, or Notice of Penalty Liability issued under:**

- Illinois Income Tax Act
- Use Tax Act
- Service Use Tax Act
- Service Occupation Tax Act
- Retailers' Occupation Tax Act
- Cigarette Tax Act
- Cigarette Use Tax Act
- Tobacco Products Tax Act of 1995
- Hotel Operators' Occupation Tax Act
- Motor Fuel Tax Law
- Automobile Renting Occupation and Use Tax Act

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- Coin-Operated Amusement Device and Redemption Machine Tax Act
  - Gas Revenue Tax Act
  - Water Company Invested Capital Tax Act
  - Telecommunications Excise Tax Act
  - Telecommunications Infrastructure Maintenance Fee Act
  - Public Utilities Revenue Act
  - Electricity Excise Tax Law
  - Aircraft Use Tax Law
  - Watercraft Use Tax Law
  - Gas Use Tax Law
  - Uniform Penalty and Interest Act

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