

Alabama – Tax tribunal established

March 18, 2014

In brief

Effective October 1, 2014, a newly created Alabama Tax Tribunal will hear appeals of tax matters from the Department of Revenue as well as from certain participating counties and cities. The Tribunal replaces the Administrative Law Division and the Administrative Law Judge within the Department of Revenue. The Tribunal is separate and independent from the Department of Revenue. [[*Alabama H.B. 105*](#), signed by the governor on March 10, 2014]

In detail

The following provides highlights from H.B. 105 as it relates to the establishment of the Alabama Tax Tribunal.

Tribunal jurisdiction and process

- The Tribunal will be the “sole, exclusive, and final authority for the hearing and determination of questions of law and fact arising under the tax laws of” Alabama.
- The Tribunal has jurisdiction to hear and determine nearly all appeals pending before the Department of Revenue's Administrative Law Division on October 1, 2014, and nearly all subsequent appeals filed with the Alabama Tax Tribunal.
- Jurisdiction for local taxes is limited to counties and municipalities that choose to participate under the

Tribunal. Localities choosing not to participate must actively elect to opt-out of the Tribunal's jurisdiction.

- A Tribunal hearing is commenced by the filing of a notice of appeal protesting a tax determination made by the Department.
- Taxpayers may, but are not required to, appeal to the Tribunal a Department notice of proposed adjustment regarding net operating loss deduction of carryovers.
- The Tribunal may decide questions regarding the constitutionality of statutes and regulations as applied to a taxpayer. The Tribunal does not have the power to declare a statute unconstitutional on its face.

- Tribunal decisions are appealable to the appropriate circuit court.
- Taxpayers may be represented by an attorney admitted to practice in Alabama, including an attorney who is a partner or member of, or is employed by, an accounting or other professional services firm; by an accountant licensed in this state; or by an authorized representative.

Preliminary assessments

- Prior to October 1, 2014, the issuance of a preliminary assessment suspends the statute of limitations indefinitely, during which a taxpayer has no appeal rights.
- Effective October 1, 2014, under H.B. 105, if a preliminary assessment is not withdrawn or made final by the Department within

five years from the date of entry, a taxpayer may appeal the preliminary assessment to the Tribunal or to the appropriate circuit court.

Judges

- The Tribunal will consist of at least one full-time judge and no more than three judges can serve at one time.
- Judges are appointed by the governor, generally for six-year terms.

- Judges are to have “substantial knowledge of the tax law and substantial experience making the record in a tax case suitable for judicial review.”
- The chief judge is to be appointed by July 1, 2014.

Office and hearing locations

- The Tribunal’s principal office will be in Montgomery, Alabama.
- The Tribunal will conduct hearings at its principal office and may hold hearings anywhere in the state.

The takeaway

The creation of an independent tax tribunal in Alabama has been a long time coming, and congratulations are owed to those who have worked tirelessly to bring it into being. The passage of H.B. 105 is a great accomplishment by Alabama that hopefully will be followed by sister states.

Let’s talk

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