

ACT No. 640

Regular Session, 2014

HOUSE BILL NO. 863

BY REPRESENTATIVES DANAHAY, JOHNSON, RITCHIE, ROBIDEAUX,
WHITNEY, AND WILLMOTT

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AN ACT

To amend and reenact R.S. 36:801.1(A) and R.S. 47:302(K)(6) and (7), 337.2(D), 337.45(A)(1) and (B), 337.48(A), 337.51(A), (B), and (C)(2), 337.53(C), 337.54, 337.63(A)(1) and (2), (B), and (D), 337.67(B)(3), (C)(3), and (D)(2), 337.77(F), 337.81(A)(2) and (C), 337.86(E)(2)(a), 337.101(A)(2)(a), 1401, 1402, 1403(A) and (B), 1406, 1410, 1413, 1431, 1432, 1436, 1437, and 1451, and R.S. 49:968(B)(9), to enact R.S. 36:53(J) and R.S. 47:337.2(A)(1)(c), 337.77(G), 337.81.1, 337.86(E)(1)(d), 1407(3), 1414(E), 1417, and 1418, and to repeal R.S. 36:4(B)(1)(p) and R.S. 47:337.51.1 and 337.101(A)(2)(c), (B), and (C), relative to disputes concerning taxes, fees, and claims against the state and its political subdivisions; to provide relative to the composition, compensation, procedures, and jurisdiction of the Board of Tax Appeals; to provide for the dedication of certain revenues for support of the board; to transfer the board to the Department of State Civil Service; to provide with respect to procedures for collection and adjudication of local sales and use tax; to provide for redetermination of certain local sales and use tax assessments and overpayments; to authorize the transfer of certain cases to and from the board and certain courts; to provide for definitions; to provide for effectiveness; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 36:801.1(A) is hereby amended and reenacted and R.S. 36:53(J) is hereby enacted to read as follows:

§53. Transfer of boards, commissions, departments, and agencies to Department of State Civil Service

* * *

J. The Board of Tax Appeals is placed within the Department of State Civil Service as an independent agency and shall exercise its powers, duties, functions, and responsibilities in the manner provided for agencies transferred in accordance with the provisions of R.S. 36:801.1. The State Civil Service Commission, the Department of State Civil Service, and its director shall in no way interfere with, review, or change the decisions or operations of the agency so placed. There shall be a Local Tax Division of the Board of Tax Appeals.

* * *

§801.1. Transfer; retention of all functions

A. The agencies transferred by the provisions of R.S. 36:4(B)(1)(dd), ~~(B)~~ and (18) and (D), 4.1(C) and (G), 53(H) and (J), 209(R), 259(J), 409(N), 509(O), 651(D), and 725(A) shall continue to be comprised and selected as provided by law.

* * *

Section 2. R.S. 47:302(K)(6) and (7), 337.2(D), 337.45(A)(1) and (B), 337.48(A), 337.51(A), (B), and (C)(2), 337.53(C), 337.54, 337.63(A)(1) and (2), (B), and (D), 337.67(B)(3), (C)(3), and (D)(2), 337.77(F), 337.81(A)(2) and (C), 337.86(E)(2)(a), 337.101(A)(2)(a), 1401, 1402, 1403(A) and (B), 1406, 1410, 1413, 1431, 1432, 1436, 1437, and 1451 are hereby amended and reenacted and R.S. 47:337.2(A)(1)(c), 337.77(G), 337.81.1, 337.86(E)(1)(d), 1407(3), 1414(E), 1417, and 1418 are hereby enacted to read as follows:

§302. Imposition of tax

* * *

K. An additional tax shall be levied as follows:

* * *

(6) The taxes levied under this Subsection shall be collected by the Department of Revenue, advised by a sales and use tax commission consisting of ~~seven~~ nine members appointed as follows: two members appointed by the Louisiana Municipal Association; two members appointed by the Louisiana School Boards Association; two members appointed by the Police Jury Association of Louisiana; two members appointed by the Louisiana Sheriffs' Association; and one member

1 appointed by the Louisiana Association of Tax Administrators. The secretary shall
 2 assess a collection fee, not to exceed one percent of the proceeds of the tax, as
 3 reimbursement for the actual cost of collection of the tax. The department shall keep
 4 the commission informed on a regular basis of the collection and distribution of the
 5 taxes collected, and the commission shall receive a copy of the executive budget
 6 submission of the Local Tax Division of the Board of Tax Appeals.

7 (7)(a) Pursuant to an appropriation by the legislature, the secretary shall
 8 annually provide for an interagency transfer in the amount of one hundred and thirty-
 9 two thousand dollars to the Department of State Civil Service, Board of Tax
 10 Appeals, to be expended exclusively for the purposes of its Local Tax Division, and
 11 thereafter distribute the proceeds of the tax to the central local sales and use tax
 12 collector or, if none, the parish governing authority according to population. The
 13 central local sales and use tax collector or the parish governing authority shall at no
 14 charge distribute the tax proceeds received from the secretary to each political
 15 subdivision within the parish which levies a sales and use tax or receives a portion
 16 of the proceeds of a parishwide sales and use tax levy, in accordance with each such
 17 political subdivision's pro rata share of local sales and use tax receipts collected on
 18 all other transactions subject to local sales and use taxes during the most recent state
 19 fiscal year for which data is available within thirty days of receipt of the proceeds.

20 (b) The amount specified in Subparagraph (a) of this Paragraph as
 21 transferred to the Department of State Civil Service, Board of Tax Appeals, shall be
 22 increased by five thousand dollars on July 1, 2015, and on the first day of each of the
 23 four subsequent fiscal years when the amount distributed pursuant to this Subsection
 24 in the fiscal year immediately preceding that date actually exceeds the amount
 25 distributed in fiscal year 2013-2014. The amounts specified in Subparagraphs (a)
 26 and (b) of this Paragraph shall be transferred by the secretary within the first thirty
 27 days of each fiscal year and the Department of State Civil Service, Board of Tax
 28 Appeals, may retain all funds which are transferred as directed in Subparagraphs (a)
 29 and (b) of this Paragraph.

30 * * *

1 §337.2. Intent; application and interpretation of Chapter

2 A.(1) The intention of the legislature in enacting the provisions of this
3 Chapter is as follows:

4 * * *

5 (c) To provide, in addition to existing judicial remedies, for an impartial,
6 economical, and expeditious forum where a taxpayer may choose to resolve disputes
7 arising under sales and use taxes imposed by local taxing authorities before the
8 Board of Tax Appeals, an independent quasi judicial agency within the Department
9 of State Civil Service; and to provide a uniform remedy for taxpayers appealing
10 assessments or denials or inaction on a refund claim, all for the purpose of promoting
11 uniformity and consistency in the interpretation and application of law governing
12 such taxes.

13 * * *

14 D. However, in the interest of making the assessment, collection,
15 administration, and enforcement of state and local sales tax uniform, it is the
16 intention of the legislature that both the provisions of this Chapter and the provisions
17 of local ordinances which are similar to provisions in Chapters 2, 2-A, 2-B, and 18
18 of this Subtitle shall be interpreted by the Board of Tax Appeals and the courts of
19 this state to have the same meaning and application as the provisions in those
20 Chapters.

21 * * *

22 §337.45. Alternative remedies for the collection of taxes

23 A. In addition to following any of the special remedies provided in this
24 Chapter, the collector may, in his discretion, proceed to enforce the collection of any
25 taxes due under the local ordinance by means of any of the following alternative
26 remedies or procedures:

27 (1) Assessment and distraint, as provided in R.S. 47:337.48 through 337.60;
28 ~~provided that a taxpayer may utilize the mandatory arbitration procedure provided~~
29 ~~for in R.S. 47:337.51.1.~~

30 * * *

1 B. The collector may choose which of these procedures he will pursue in
 2 each case, and the counter-remedies and delays to which the taxpayer will be entitled
 3 will be only those which are not inconsistent with the proceeding initiated by the
 4 collector, provided that in every case the taxpayer shall be entitled to proceed under
 5 R.S. 47:337.63₂ except (a) after he has filed a petition with the Board of Tax Appeals
 6 for a redetermination of the assessment, (b) when an assessment for the tax in
 7 question has become final₂ or ~~(b)~~ (c) when a suit involving the same tax obligation
 8 is pending against him; and provided further, that the fact that the collector has
 9 initiated proceedings under the assessment and distraint procedure will not preclude
 10 him from thereafter proceeding by summary or ordinary court proceedings for the
 11 enforcement of the same tax obligation.

12 * * *

13 §337.48. Determination and notice of tax due

14 A.(1) If a taxpayer fails to make and file any return or report required by the
 15 provisions of the local ordinance and this Chapter, the collector shall determine the
 16 tax, penalty, and interest due by estimate or otherwise. Having determined the
 17 amount of tax, penalty, and interest due, the collector shall send by mail a notice to
 18 the taxpayer at the address given in the last report filed by him pursuant to the
 19 provisions of this Chapter, or to any address that may be obtainable from any private
 20 entity which will provide such address free of charge or from any federal, state, or
 21 local government entity, including but not limited to the U.S. Postal Service or from
 22 U.S. Postal Service certified software, setting out his determination and informing
 23 the person of his purpose to assess the amount so determined against him after
 24 fifteen calendar days from the date of the notice.

25 (2) Notwithstanding any other provision of law to the contrary, a notice
 26 issued pursuant to Paragraph (1) of this Subsection to a taxpayer or dealer who fails
 27 to make and file any required report or return shall not be appealable to the Board of
 28 Tax Appeals for redetermination of the notice of tax due issued pursuant to this
 29 Section when the notice is solely for the periods and is in the amount stated on the
 30 notice transmitted to such taxpayer or dealer pursuant to Paragraph (1) of this

1 Subsection. Nothing in this Paragraph shall prohibit any taxpayer or dealer from
2 proceeding to file suit pursuant to R.S. 47:337.63 or 337.64, or any other applicable
3 law.

4 * * *

5 §337.51. Notice of assessment and right to appeal ~~or arbitration~~

6 A.(1) Having assessed the amount determined to be due, the collector shall
7 send a notice by certified mail to the taxpayer against whom the assessment is
8 imposed at the address given in the last report filed by ~~said~~ the taxpayer, or to any
9 address obtainable from any private entity which will provide such address free of
10 charge or from any federal, state, or local government entity, including but not
11 limited to the United States Postal Service or from the United States Postal Service
12 certified software. This notice shall inform the taxpayer of the assessment and that
13 he has thirty calendar days from the date of the notice to do any of the following:

14 (a) Pay the amount of the assessment.

15 (b) Appeal to the Board of Tax Appeals for redetermination of the
16 assessment.

17 (c) Pay under protest in accordance with R.S. 47:337.63, and then either file
18 suit or file a petition with the Board of Tax Appeals all as provided for in that
19 Section.

20 (2) If no report has been timely filed, the collector shall send a notice by
21 certified mail to the taxpayer against whom the assessment is imposed at any address
22 obtainable from any private entity which will provide such address free of charge or
23 from any federal, state, or local government entity, including but not limited to the
24 United States Postal Service or from the United States Postal Service certified
25 software. This notice shall inform the taxpayer of the assessment and that he has
26 thirty calendar days from the date of the notice to ~~(a) pay the amount of the~~
27 ~~assessment; (b) request mandatory arbitration pursuant to R.S. 47:337.51.1 or; (c)~~
28 pay do either of the following:

29 (a) Pay the amount of the assessment.

1 **(b) Pay under protest in accordance with R.S. 47:337.63 and then either file**
 2 **suit or file a petition with the Board of Tax Appeals, all** as provided for in that
 3 Section ~~or request mandatory arbitration pursuant to R.S. 47:337.51.1.~~

4 **(3) If the taxpayer has not paid under protest in accordance with the**
 5 **provisions of R.S. 47:337.63, or pursued an alternative remedy in accordance with**
 6 **R.S. 47:337.64, or filed an appeal with the Board of Tax Appeals within the thirty-**
 7 **day period provided for in Paragraph (1) of this Subsection, the assessment shall be**
 8 **final and shall be collectible by distraint and sale as provided in this Part. If an**
 9 **appeal for a redetermination of the assessment has been timely and properly filed,**
 10 **the assessment shall not be collectible by distraint and sale until such time as the**
 11 **assessment has been redetermined or affirmed by the Board of Tax Appeals or the**
 12 **court which last reviews the matter.**

13 B. If any dealer ~~shall be aggrieved by~~ **disputes** any findings or assessment
 14 of the collector, he may, within thirty days of the receipt of notice of the assessment
 15 or finding, do any of the following:

16 (1)(a) File an appeal from the decision of the collector directed to ~~any state,~~
 17 ~~city, or federal court of competent jurisdiction~~ **the Board of Tax Appeals.**

18 (b) Pay under protest in accordance with R.S. 47:337.63, and either file suit
 19 as provided for in that Section, or ~~make a written request for mandatory arbitration~~
 20 ~~pursuant to R.S. 47:337.51.1~~ **file a petition with the Board of Tax Appeals as**
 21 **provided in that Section.**

22 ~~(c) Mail a written request for mandatory arbitration pursuant to R.S.~~
 23 ~~47:337.51.1 without payment under protest.~~

24 (2) This Section shall afford a legal remedy and right of action **in the Board**
 25 **of Tax Appeals, or in any state, city, or federal court having jurisdiction of the parties**
 26 and subject matter for a full and complete adjudication of any and all questions
 27 arising in the enforcement of the local ordinance and this Chapter as to the legality
 28 of any tax accrued or accruing or the method of enforcement thereof. **If an appeal**
 29 **for a redetermination of the assessment has been timely and properly filed with the**
 30 **Board of Tax Appeals pursuant to Subparagraph (1)(a) of this Subsection, the**

1 assessment shall not be collectible by distraint and sale until the assessment has been
2 redetermined or affirmed by the Board of Tax Appeals or the court which last
3 reviews the matter.

4 (3) A notice of tax due issued pursuant to the provisions of R.S. 47:337.48
5 shall not constitute a finding for purposes of this Subsection.

6 C.

7 * * *

8 (2) The determination of an error of fact or of law under this Subsection shall
9 be solely that of the collector, and no action against the collector with respect to the
10 determination shall be brought in any court, including the Board of Tax Appeals, and
11 no court shall have jurisdiction of any such action, it being the intent of this
12 Subsection only to permit the collector to correct manifest errors of fact or in the
13 application of the law made by the collector in making the assessment; however, all
14 reductions of assessments based on such errors, except estimated assessments made
15 due to the failure of the taxpayer to file a proper tax return, must be approved and
16 signed by the collector. Estimated assessments made due to the failure of the
17 taxpayer to file a proper tax return may be corrected by the acceptance of the proper
18 tax return and must be approved by the collector or his designee.

19 * * *

20 §337.53. Assessment and notice when tax is in jeopardy

21 * * *

22 C. The taxpayer against whom the assessment lies can stay distraint of his
23 property, or sale of his property already distrained, as the case may be, only by the
24 immediate payment of the assessment or by posting with the collector a surety bond
25 for twice the amount of such assessment, or of a lower amount acceptable to the
26 collector, with such sureties as the collector deems necessary. The taxpayer shall
27 have sixty calendar days from the date of payment, or the date of posting bond, to
28 appeal to ~~a court of competent jurisdiction~~ the Board of Tax Appeals for a
29 redetermination of the assessment. During this period, the collector shall hold any
30 payment made in an escrow account. If the taxpayer does not appeal, the collector

1 shall immediately credit such payment to tax collections or proceed to collect from
 2 sureties, if any were given. In the event of an appeal, such payment or demand for
 3 payment from sureties given shall be held in abeyance pending the redetermination
 4 or affirmation of the assessment by the Board of Tax Appeals or the court which last
 5 reviews the matter. Final payment, or collection from sureties, will be for the
 6 amount of the affirmed or redetermined assessment.

7 §337.54. Assessment and claims in bankruptcy and receivership

8 Upon the adjudication of bankruptcy of any taxpayer in any bankruptcy
 9 proceeding, or the appointment of a receiver for any taxpayer in a receivership
 10 proceeding, before any court of this state or of the United States, the collector may
 11 immediately make a determination from any available information or by estimate or
 12 otherwise, of the amount of tax, penalty and interest the taxpayer is liable to pay and
 13 immediately assess ~~said~~ this amount, and by a writing to be retained as a part of his
 14 official records indicate that such assessment has been made. Such assessment may
 15 be made whenever a tax becomes due under the provisions of this Chapter,
 16 regardless of whether it is then payable or not. Claims for such assessments, and
 17 additional interest and attorney fees thereon, shall be presented for adjudication in
 18 accordance with law to the court before which the bankruptcy or receivership
 19 proceeding is pending despite the pendency of delays before assessment provided in
 20 R.S. 47:337.48 through 337.51, or the pendency of an appeal to the collector, the
 21 Board of Tax Appeals, or the courts for a redetermination. However, no petition for
 22 the redetermination of an assessment shall be filed with the collector, the Board of
 23 Tax Appeals, or the courts after an adjudication of bankruptcy or the appointment of
 24 a receiver, unless the petition is accompanied by a certified copy of an order of the
 25 court before which the bankruptcy or receivership proceedings is pending,
 26 authorizing the trustee or receiver to prosecute such appeal.

27 * * *

28 §337.63. Remittance of tax under protest; suits to recover

29 A.(1)(a) Any taxpayer protesting the payment of any amount found due by
 30 the collector or the enforcement of any provision of law in relation thereto shall

1 remit to the collector the amount due and at that time shall give notice of intention
 2 to file suit for the recovery of such tax or shall remit to the collector the amount due,
 3 and ~~make a written request for mandatory arbitration pursuant to R.S. 47:337.51.1~~
 4 at that time give notice of intention to file a petition with the Board of Tax Appeals,
 5 as provided in this Section.

6 (b) In the case of sales or use taxes that are required to be collected and
 7 remitted by a selling dealer as provided for in R.S. 47:337.17, the purchaser, in order
 8 to avail himself of the alternative remedy provided by this Section, shall remit
 9 protested sales or use tax to the selling dealer, and shall retain copies of
 10 documentation evidencing the amount of the sales or use tax paid to the dealer on the
 11 transactions. On or before the twentieth day of the month following the month of the
 12 transactions on which the selling dealer charged the tax, the purchaser shall inform
 13 the collector by certified mail or other reasonable means of the dates and amounts
 14 of the protested taxes that were charged by the selling dealer, and shall give notice
 15 of the purchaser's intention to file suit for recovery of the tax or to ~~make a written~~
 16 ~~request for mandatory arbitration pursuant to R.S. 47:337.51.1~~ file a petition for
 17 recovery of the tax with the Board of Tax Appeals, as provided by law.

18 (2) Upon receipt of this notice, the amount remitted to the collector or the
 19 amount of protested taxes that have been paid to the selling dealer shall be placed in
 20 an escrow account and held by the collector or his duly authorized representative for
 21 a period of thirty days. If suit is filed for recovery of the tax or a ~~written request for~~
 22 ~~mandatory arbitration is mailed as provided for in R.S. 47:337.51.1~~ petition is filed
 23 with the Board of Tax Appeals for recovery of the tax, within the thirty-day period,
 24 the funds in the escrow account shall be further held pending the outcome of the suit
 25 or ~~the arbitration proceeding~~ petition with the Board of Tax Appeals or appeal
 26 therefrom.

* * *

27
 28 B. This Section shall afford a legal remedy and right of action in the Board
 29 of Tax Appeals as provided in this Section, or in any state court having jurisdiction
 30 of the parties and subject matter, for a full and complete adjudication of any and all

1 questions arising in the enforcement of the sales and use tax of a taxing authority as
 2 to the legality of any tax accrued or accruing or the method of enforcement thereof.
 3 In such action, service of process upon the collector shall be sufficient service, and
 4 he shall be the sole necessary and proper party defendant in any such suit.

* * *

6 D. Upon request of a taxpayer and upon proper showing by such taxpayer
 7 that the principle of law involved in an additional assessment is already pending
 8 before the courts for judicial determination or before ~~an arbitration panel as provided~~
 9 ~~for in R.S. 47:337.51~~ the Board of Tax Appeals, the taxpayer, upon agreement to
 10 abide by the decision of the courts, ~~an arbitration panel~~ the Board of Tax Appeals,
 11 or by a final judgment of a court upon a timely appeal of a decision of ~~an arbitration~~
 12 ~~panel~~ the Board of Tax Appeals, may remit the additional assessment under protest,
 13 but need not file an additional suit or ~~make another mandatory arbitration request~~
 14 petition. In such cases, the tax so paid under protest shall be placed in an escrow
 15 account and held by the collector until the question of law involved has been
 16 determined by the courts, ~~an arbitration panel~~ the Board of Tax Appeals, or by a final
 17 judgment of a court upon a timely appeal of a decision of ~~an arbitration panel~~ the
 18 Board of Tax Appeals, and shall then be disposed of as therein provided.

* * *

20 §337.67. Suspension and interruption of prescription

* * *

22 B. The prescriptive period running against any such sales and use tax shall
 23 be interrupted by any of the following:

* * *

25 (3) The filing of any pleading, either by the collector or the taxpayer, with
 26 the Board of Tax Appeals or with any state or federal court.

* * *

28 C. The running of such prescriptive period may also be suspended as
 29 follows:

* * *

1 (3) By ~~use of the mandatory arbitration procedure provided for in R.S.~~
 2 ~~47:337.51.1.~~ the filing of a claim for refund as to the period for which a refund is
 3 requested, which shall suspend prescription for the same period for the collector to
 4 determine whether the taxpayer owes any other liability for the same type of tax
 5 under the provisions of R.S. 47:337.78.

6 D.

7 * * *

8 (2) However, if a taxpayer who does not file a tax return required to be filed
 9 by this Chapter later becomes responsible for the filing of such return due to a
 10 decision of the Board of Tax Appeals which has become final, or due to a final court
 11 decision rendering which renders a transaction or other activity as taxable, and the
 12 laws, regulations, or jurisprudence of this state previously classified that transaction
 13 or other activity as nontaxable, this provision shall not apply and prescription shall
 14 run as if the taxpayer had timely filed the return.

15 * * *

16 §337.77. Refunds of overpayments authorized

17 * * *

18 F. This Section shall not be construed to authorize any refund of tax overpaid
 19 through a mistake of law arising from the misinterpretation by the collector of the
 20 provisions of any law or of any rules and regulations. In the event a taxpayer
 21 believes that the collector has misinterpreted the law or rules and regulations
 22 contrary therewith, his remedy is by payment under protest and suit to recover or
 23 petition to the Board of Tax Appeals, as provided by law.

24 G. A claim for a refund or credit in a properly addressed envelope with
 25 sufficient postage delivered by the United States Postal Service is deemed filed by
 26 the taxpayer and received by the collector on the date postmarked by the United
 27 States Postal Service. Additionally, a claim for refund or credit is deemed filed by
 28 the taxpayer and received by the collector through any means provided for by any
 29 regulation promulgated pursuant to R.S. 47:337.97 through 337.100.

30 * * *

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 §337.81. Appeals from the collector's disallowance of refund claim

2 A.

3 * * *

4 (2) The taxpayer may appeal a denial of a claim for refund to ~~a court of~~
5 ~~competent jurisdiction or mail a written request for mandatory arbitration pursuant~~
6 ~~to R.S. 47:337.51.†~~ the Board of Tax Appeals, as provided by law. No appeal may
7 be filed ~~or request for arbitration made~~ before the expiration of one year from the
8 date of filing such claim unless the collector renders a decision thereon within that
9 time, nor after the expiration of ninety days from the date of mailing by certified or
10 registered mail by the collector to the taxpayer of a notice of the disallowance of the
11 part of the claim to which such appeal relates, nor after the expiration of one hundred
12 eighty days from the end of the year in which the collector failed to act.

13 * * *

14 C. In answering any such appeal, the collector is authorized to assert a
15 demand for any tax and additions thereto that he may deem is due for the period
16 involved in the claim for refund or credit, and the Board of Tax Appeals shall have
17 jurisdiction to determine the correct amount of tax for the period in controversy, and
18 to render judgment ordering the refund or crediting of any overpayment or ordering
19 the payment of any additional tax, interest, penalty, attorney fees, and other amounts
20 found to be due.

21 §337.81.1. Board of Tax Appeals' finding of overpayment upon appeal from
22 assessment

23 If the Board of Tax Appeals, pursuant to a hearing of an appeal from an
24 assessment of the collector in accordance with the provisions of R.S. 47:337.51,
25 337.53, or 337.54, finds that there is no tax due and further finds that the taxpayer
26 has made a refundable overpayment of the tax for the period for which the collector
27 asserted the claim for additional tax, the Board of Tax Appeals shall have jurisdiction
28 to determine the amount of the overpayment, and to order that the amount of
29 overpayment be refunded or credited to the taxpayer; however, the Board of Tax
30 Appeals shall not order a refund or credit unless, as part of its decision, it determines

1 that either the petition of appeal in which the refund or credit was requested was filed
2 within the period set out in R.S. 47:337.79, or that a claim for the refund or credit
3 had been filed with the collector within that period.

4 * * *

5 §337.86. Credit for taxes paid

6 * * *

7 E.(1) Notwithstanding any other law to the contrary, no person shall be taxed
8 with respect to a particular event more than once, provided that the person collecting
9 and remitting taxes can produce to the collector documentary evidence to show a
10 good faith effort to recover taxes paid to the incorrect taxing authority. Such
11 documentary evidence shall consist of the following:

12 * * *

13 (d) Notwithstanding any provision of law to the contrary, any taxpayer who
14 receives an assessment and who has complied with any applicable provisions of
15 Subparagraphs (a) through (c) of this Paragraph, may within thirty calendar days of
16 the date of notice, take any action specified in R.S. 47:337.51(A)(1).

17 (2)(a) The collector shall not impose penalties or interest on taxes
18 erroneously paid to another taxing authority unless the erroneous payment was the
19 result of intentional conduct ~~of~~ or gross negligence on the part of the persons
20 collecting and remitting taxes. In instances where a legitimate disagreement exists
21 as to which taxing authority is owed, the involved taxing authorities shall resolve the
22 dispute among themselves through any legal means, including the filing of a rule or
23 petition in the manner provided for in R.S. 47:337.101.

24 * * *

25 §337.101. Procedures to seek uniformity of interpretation of common or local sales
26 tax law

27 A.

28 * * *

29 (2) Such taxpayer or collector may proceed to seek uniformity of
30 interpretation of a rule, regulation, policy or interpretation of sales and use tax laws,

1 ordinances, rules, or regulations in accordance with any remedy available under
 2 applicable law, including the following procedures:

3 (a) A rule to seek uniformity of interpretation of common sales tax law or
 4 local sales tax law in any court of competent jurisdiction, or in the Board of Tax
 5 Appeals.

6 * * *

7 §1401. Creation of board of tax appeals

8 In order to provide a board that will act as an appeal board to hear and decide,
 9 at a minimum of expense to the taxpayer, questions of law and fact arising from
 10 disputes or controversies between a taxpayer and the collector of revenue of the State
 11 of Louisiana in the enforcement of any tax, excise, license, permit or any other tax
 12 law administered by the collector, and to exercise jurisdiction as provided for in the
 13 Uniform Local Sales Tax Code, the Board of Tax Appeals, hereinafter referred to as
 14 the board, is created as an independent agency in the ~~executive department of the~~
 15 ~~state government~~ Department of State Civil Service, and for the purposes of this
 16 Chapter.

17 §1402. Membership of board; qualifications; appointment; term; vacancy; salary

18 A.(1) The Board of Tax Appeals shall be composed of three members who
 19 shall be attorneys and who shall be qualified electors of the state. At least two of the
 20 board members shall be attorneys with tax law experience. At least one of these two
 21 board members shall be certified as a Tax Law Specialist by the Louisiana Board of
 22 Legal Specialization. Each member shall be appointed by the governor ~~and shall~~
 23 ~~serve at the pleasure of the governor.~~ Vacancies shall be filled in the manner of the
 24 original appointment.

25 (2) For the purposes of this Subsection, tax law experience shall mean an
 26 attorney admitted to the practice of law in Louisiana who possesses a Masters of Law
 27 in Taxation or Tax Law, is board certified as a Tax Law Specialist in this state, is
 28 licensed as a certified public accountant in this state, or who has served pursuant to
 29 Article V, Section 22 of the Louisiana Constitution as a judge of a district or
 30 appellate court.

1 B. Each appointment to the board by the governor shall be submitted to the
2 Senate for confirmation.

3 C. ~~The term of members in office prior to twelve o'clock noon on July 16,~~
4 ~~1984 shall be deemed to have terminated as of July 16, 1984, however, any such~~
5 ~~member shall remain in office until his successor is appointed and takes office~~
6 governor shall make the following appointments on or before September 1, 2014:
7 one member with a term expiring February 1, 2016, and one member with a term
8 expiring February 1, 2018. Any subsequent appointments pursuant to this
9 Subsection shall be for either a fixed term of four years or for the remainder of an
10 unexpired term.

11 D.(1) On or before August 1, 2014, the governor shall appoint one member
12 to a term expiring February 1, 2020, from a list of qualified nominees provided by
13 the nominating committee established pursuant to this Subsection. Any subsequent
14 appointments pursuant to this Subsection shall be for either a fixed term of six years
15 or for the remainder of an unexpired term.

16 (2) The nominating committee shall be responsible for developing a list of
17 not less than one, nor more than three, qualified nominees for any vacancy. Any
18 person nominated by the committee must be an attorney with experience in
19 Louisiana sales tax law, and at least one nominee shall be certified as a Tax Law
20 Specialist by the Louisiana Board of Legal Specialization.

21 (3) The Local Tax Division Nominating Committee is hereby established to
22 be comprised of eight members who shall be either an attorney licensed to practice
23 law in Louisiana, a certified public accountant, or a parish tax administrator. The
24 committee shall be comprised of the following members:

25 (a) A representative of the Louisiana Association of Business and Industry.

26 (b) A representative of the Society of Louisiana Certified Public
27 Accountants, selected in consultation with the Business and Industry Committee of
28 the Louisiana Association of Tax Administrators.

1 (c) Two representatives of the section on taxation of the Louisiana State Bar
2 Association, with one selected in consultation with the National Bar Association
3 Greater New Orleans Chapter Louis A. Martinet Society.

4 (d) A representative of the Louisiana Municipal Association.

5 (e) A representative of the Police Jury Association of Louisiana.

6 (f) A representative of the Louisiana School Boards Association.

7 (g) A representative of the Louisiana Sheriffs' Association.

8 (4) The secretary-clerk of the board shall maintain the records of the
9 nominating committee, and shall call an organizational meeting of the nominating
10 committee in order for the nominating committee to elect its chairman. The
11 chairman, or a majority of committee members, may call meetings of the committee,
12 and shall provide advance notice of all meetings to the members and to the
13 appointing entities referenced in Paragraph (3) of this Subsection.

14 (5) Six members shall constitute a quorum for the transaction of committee
15 business, and each nomination must be approved by a favorable vote of at least five
16 committee members.

17 E.(1) A board member shall continue to serve until a successor has been
18 appointed. No member may be removed during an unexpired term of office except
19 for good cause shown, which shall be subject to judicial review.

20 (2) A member who has served on the board for more than two and one-half
21 terms occurring within three consecutive terms shall be ineligible for reappointment
22 to the board until at least two years from the last day of his last appointment.
23 However, a member may be reappointed notwithstanding any other provision of law
24 to the contrary, if nominated pursuant to Subsection D of this Section, and service
25 pursuant to that Subsection is not counted for the purposes of any term or service
26 limitation.

27 F. The governor shall establish the compensation to be paid to members of
28 the board, including any additional compensation for its officers. A member's
29 compensation shall not be reduced during their unexpired term of office.

1 §1403. Designation of ~~chairman~~ officers; domicile; quorum; seal

2 A.(1) The governor shall designate a chairman from the membership of the
3 Board of Tax Appeals.

4 (2) The member other than the chairman with the longest service on the
5 board shall be its vice chairman, and shall perform duties as may be specified in the
6 rules of the board and delegated by the chairman.

7 (3) The member appointed pursuant to R.S. 47:1402(D) shall be the hearing
8 judge of the Local Tax Division of the board. For the purposes of the Local Tax
9 Division, the judge shall exercise all jurisdiction, authority, and powers of the board
10 and its chairman, including the hearing of cases to be adjudicated in the division and
11 the rendering of orders and judgments in such cases. The remainder of the board
12 may temporarily exercise these functions during any vacancy in this appointment,
13 but may hear and render judgment in a case in the division only if this appointment
14 remains vacant for more than ninety days.

15 B.(1) The principal office and domicile of the board shall be at Baton Rouge,
16 Louisiana.

17 (2) The board may hold meetings at any place within the state, and any
18 member, when designated by the chairman, may act as a hearing judge and conduct
19 hearings for the purpose of receiving testimony, argument, or both and reporting his
20 findings of fact, law, or both to the board for decision or judgment.

21 (3) The time and place of meetings and hearings shall be designated by the
22 chairman, with a view of securing reasonable opportunity to taxpayers to appear
23 before the board with as little inconvenience and expense to ~~taxpayers~~ parties and
24 witnesses as is practicable.

25 (4) With the consent of all parties or upon the request of the taxpayer in a
26 pre-trial matter involving only a state collector, the board may allow for a hearing
27 to be held by telephone, video conference, or similar communication equipment,
28 including the administration of oaths in proceedings.

29 (5) Upon the motion of the local collector, a hearing in a matter involving
30 only local taxing authorities from a single parish shall be held in that parish. The

1 respective district or other local court shall make available any facilities necessary
 2 for the hearing, and any relevant expenses may be taxed as costs, including any costs
 3 for a hearing judge in the same amount as specified in R.S. 47:1417(C)(2).

4 (6)(a)(i) Upon the joint motion of all parties in any matter, or pursuant to an
 5 election made by the local collector in accordance with the provisions of
 6 Subparagraph (b) of this Paragraph, a case filed with the board shall be heard in the
 7 board's Local Tax Division.

8 (ii) A case designated to be heard in the Local Tax Division shall be
 9 adjudicated as provided for in R.S. 47:1403(A)(3).

10 (iii) A case designated to be heard in the Local Tax Division may thereafter
 11 instead be heard and adjudicated by the entire board only upon the joint motion of
 12 all parties. However, any board member may exercise the powers granted in R.S.
 13 47:1408, and the chairman may issue other non-dispositive orders concerning cases
 14 in the division upon the joint motion of all parties or, in the absence of and at the
 15 direction of the hearing judge.

16 (b) A local collector may elect in advance to have all cases against that local
 17 collector heard in the Local Tax Division. Such election shall be made, or repealed,
 18 in the form of an affidavit executed by the local collector. The affidavit shall be
 19 effective only for those cases filed with the board against that local collector at least
 20 ninety days after the filing of the affidavit with the board's secretary-clerk. The
 21 secretary-clerk shall publish a list on the board's website identifying the respective
 22 dates on which any such affidavits were filed.

23 * * *

24 §1406. Expenditures

25 The board is authorized to make such expenditures (including expenditures
 26 for personal services and for law books, books of reference and periodicals), as may
 27 be necessary to efficiently ~~to~~ execute the functions vested in the board. All
 28 expenditures of the board shall be allowed and paid, out of any moneys appropriated
 29 for the purposes of the board. The board's self-generated revenue from local cases
 30 filed with the board pursuant to the provisions of the Uniform Local Sales Tax Code

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 shall be expended exclusively for the purposes of its Local Tax Division, and may
2 be retained by the board and carried forward for such purposes.

3 §1407. Jurisdiction of the board

4 The jurisdiction of the board shall extend to the following:

5 * * *

6 (3) All matters related to other jurisdiction otherwise provided by law,
7 including rules to seek uniformity of interpretation of common sales and use tax law
8 or local sales and use tax law, as provided in R.S. 47:337.101(A)(2).

9 * * *

10 §1410. Findings of fact, decisions, and opinions

11 A. The board shall, in each case heard by it, or in any matter referred to it by
12 the collector or in each case submitted to it upon stipulations of agreement and fact,
13 ~~make issue written~~ findings of fact and conclusions of law and make and file a
14 written decision or judgment thereon.

15 B.(1) The board may, in its discretion, issue ~~an opinion in writing~~ written
16 reasons in addition to its ~~findings of fact and~~ decision or judgment.

17 (2) Upon the request of any party, the board shall issue written reasons in
18 addition to its judgment in a case.

19 (3) Any additional written reasons issued pursuant to this Subsection shall
20 be published on the board's website.

21 * * *

22 §1413. Rules and regulations

23 A. In all other matters regarding the conduct of its hearings, the board may
24 prescribe and promulgate rules and regulations not inconsistent with law or the
25 provisions of this Chapter, ~~which rules and regulations when prescribed, adopted and~~
26 ~~promulgated.~~ Upon promulgation, the rules and regulations shall be binding upon
27 parties litigant in any cause over which the jurisdiction of this board shall extend.

28 B. Rules related to the establishment of fees chargeable for filings and for
29 services rendered by the board shall be subject to review, suspension, or veto
30 pursuant to R.S. 49:968 through 970.

1 C. The rules and regulations of the board shall be annually reviewed, and
2 may be revised as necessary to provide relative to a prompt adjudication of cases
3 filed against local collectors.

4 §1414. Persons authorized to appear before the board

5 * * *

6 E. A local collector may be represented by any designated employee of the
7 local collector.

8 * * *

9 §1417. Recusal; board members

10 A. In accordance with the provisions of the Code of Civil Procedure, a board
11 member may voluntarily recuse himself and withdraw from any proceeding in which
12 he cannot accord a fair and impartial hearing or consideration.

13 B.(1) Any party may also request the recusal of a board member by filing a
14 motion for recusal promptly upon learning of the basis for the disqualification,
15 stating with particularity the grounds upon which it is claimed that a fair and
16 impartial hearing cannot be accorded.

17 (2) The issue shall be determined promptly by the remaining board members
18 in accordance with the rules of the Code of Civil Procedure concerning the recusal
19 of district judges.

20 C.(1) Upon the entry of an order of recusal concerning a board member or
21 members, the remaining board members may hear and decide the case, or the
22 chairman may assign the case to be heard in accordance with R.S. 47:1403(B)(2),
23 and the board member acting as hearing judge shall render the judgment of the
24 board.

25 (2) If all board members are recused, the chairman shall promptly notify the
26 chief justice of the Louisiana Supreme Court, who shall appoint a retired judge to
27 adjudicate the case as a hearing judge ad hoc for the board and to render the
28 judgment of the board in the matter. For purposes of this Subsection, any person
29 who has held office as a judge pursuant to Article V, Section 22 of the Constitution
30 of Louisiana may be appointed. The retired judge shall be compensated pursuant to

1 R.S. 11:1384 as for a district court from funds available to the board, and these
 2 expenses may be assessed as costs.

3 (3) Upon entry of an order of recusal concerning the board member presiding
 4 over a case in the Local Tax Division, the case shall be reassigned to be heard in
 5 accordance with Paragraph (2) of this Subsection, or, upon a joint motion of all
 6 parties it may either be heard pursuant to Paragraph (1) of this Subsection or be
 7 transferred to the district court of proper venue.

8 D. Notwithstanding any provision of law to the contrary, including Chapter
 9 15 of Title 42 of the Louisiana Revised Statutes of 1950, as amended, if any member
 10 of the board is recused from a case pursuant to this Section, he may continue to serve
 11 as a member of the board while the remainder of the board adjudicates a taxpayer's
 12 appeal or claim, but the board member shall have no participation or involvement in
 13 any case in which he is recused.

14 §1418. Definitions

15 For purposes of this Chapter, except when the context requires otherwise, the
 16 words and expressions defined in this Section shall have the following meanings:

17 (1) "Board" means the Board of Tax Appeals.

18 (2) "Collector" means the state collector or a local collector, unless specified
 19 otherwise.

20 (3) "Local collector" means any of the following:

21 (a) The individual or entity designated as the single collector of the sales and
 22 use taxes of any parish, municipality, school board, any other unit of local
 23 government, and any special district whose boundary is not coterminous with the
 24 state, and their duly authorized assistants in relation to a tax levied by any local
 25 political subdivision within the jurisdiction of the Board of Tax Appeals.

26 (b) The agent or successor to any of the above, including any joint
 27 commission, authority, or other duly constituted single collection entity, created by
 28 an agreement, when administering or collecting the taxes of any local political
 29 subdivision within the jurisdiction of the Board of Tax Appeals.

1 (4) "Petition" means a separate and distinct pleading filed against the
 2 relevant state collector or local collector. A petition filed against a state collector
 3 shall not interrupt or suspend the time period within which a taxpayer must file a
 4 petition against any local collector, and a petition filed against a local collector shall
 5 not suspend or interrupt the time period within which a taxpayer must file a petition
 6 against a state collector or a different local collector.

7 (5) "State collector" means any of the following:

8 (a) The secretary of the Department of Revenue, including the secretary's
 9 duly authorized assistants, when used in reference to any tax or fee administered by
 10 the department.

11 (b) The assistant secretary of the office of motor vehicles within the
 12 Department of Public Safety and Corrections, including the assistant secretary's duly
 13 authorized assistants, when used in reference to any state tax or fee administered by
 14 the office and within the jurisdiction of the Board of Tax Appeals.

15 (c) The commissioner of the office of alcohol and tobacco control, within the
 16 Department of Revenue, when used in relation to any state tax or fee administered
 17 by the office and within the jurisdiction of the Board of Tax Appeals.

18 (d) The agent or successor of any of the foregoing offices when
 19 administering a state tax or fee within the jurisdiction of the Board of Tax Appeals.

20 * * *

21 §1431. Taxpayer's petition

22 A. Whenever a taxpayer is aggrieved by an assessment made by the state
 23 collector, or by the state collector's action or failure to act on a claim for refund or
 24 credit of an overpayment, such taxpayer may appeal to the board for a
 25 redetermination of the assessment or a determination of the alleged overpayment, by
 26 filing a petition with the board within the respective periods set forth in R.S.
 27 47:1565, 1566, and ~~47:1625~~.

28 B. If a taxpayer has complied with the provisions of R.S. 47:337.63 or 1576,
 29 the taxpayer may file a payment under protest petition with the board within the
 30 respective periods set forth therein.

1 C. If a taxpayer disputes an assessment made by a local collector, or a local
 2 collector's action or failure to act on a claim for a refund or credit of an overpayment,
 3 the taxpayer may appeal to the board for a redetermination of the assessment or a
 4 determination of the alleged overpayment, by filing a petition with the board as
 5 provided in R.S. 47:337.51, 337.53, or 337.81.

6 §1432. Notice; hearing; decision

7 ~~In~~ A. The taxpayer and the collector shall be afforded notice and opportunity
 8 to be heard in each proceeding for the redetermination of an assessment, the
 9 consideration of a payment under protest petition, or for the determination of an
 10 overpayment notice and opportunity to be heard shall be given to the taxpayer and
 11 ~~the collector and a~~ . A decision or judgment in such matters shall be made as quickly
 12 as practicable.

13 B.(1) The board has no jurisdiction to declare a statute or ordinance
 14 unconstitutional. When the taxpayer or collector has pled the unconstitutionality of
 15 a statute or ordinance, the board shall order the case transferred to the district court
 16 of proper venue upon the motion of any party if the board finds that the case cannot
 17 be resolved without reaching a declaration on the alleged unconstitutionality.

18 (2) A district court shall consider de novo the issues of unconstitutionality
 19 pled in any case transferred to it pursuant to this Subsection, but upon the joint
 20 motion of all parties and the attorney general, the board may develop a record and
 21 make a recommendation to the district court on the issue.

22 C. Except upon the joint motion of all parties, the board shall not consolidate
 23 a case against a local collector with a case against a state collector or with a case
 24 against one or more other local collectors; however, nothing in this Part shall prevent
 25 the board, upon the joint motion of all parties and when in the interest of justice and
 26 efficiency, from ordering a consolidated hearing for the adjudication of pending
 27 cases, provided that each party's own counsel or qualified representative and
 28 witnesses may appear and present its case, and provided that the board shall render
 29 a separate judgment for any case brought against a local collector, even when such
 30 case is considered in a joint hearing together with another case or cases.

1 D. If an assessment of a local collector is appealed to the board for
 2 redetermination that covers both a sales and use tax matter that is appealable to the
 3 board together with a tax matter that is not appealable to the board, the local
 4 collector may either consent to the board's adjudication of the matter or consent that
 5 the appealable assessment should be reduced by a stipulated amount, and the local
 6 collector may then immediately, and without any other delays provided for by law,
 7 issue a new assessment for the stipulated amount. The taxpayer's rights and
 8 remedies concerning the newly issued assessment shall run from the date of its
 9 issuance. The board shall retain jurisdiction to adjudicate all other issues concerning
 10 the redetermination or affirmation of the appealed assessment, but shall include the
 11 stipulated reduction in its final judgment together with its other findings.

12 * * *

13 §1436. Determination of which ~~district~~ appellate court has jurisdiction

14 A. A decision or judgment of the board in a case against a state collector
 15 may be reviewed as follows:

16 (1) In the case of an individual, by the ~~district~~ court of appeal for the ~~district~~
 17 ~~whereof parish in which~~ he is a resident domiciled, or if not ~~a resident of domiciled~~
 18 in any district parish, then by the ~~district~~ court of appeal for the parish of East Baton
 19 Rouge.

20 (2) In the case of a juridical person ~~other than an individual~~, except as
 21 provided in ~~paragraphs (3), (4), and (5)~~ Paragraphs (3) and (4) of this Section
 22 Subsection, by the ~~district~~ court of appeal for the parish of East Baton Rouge.

23 (3) In the case of a corporation which has a principal office or agency in
 24 Louisiana, then by the ~~district~~ court of appeal for the ~~district~~ parish where such
 25 principal office or agency is located.

26 (4) ~~In the case of a corporation which has no principal office or agency in~~
 27 ~~Louisiana, then by the district court for the parish of East Baton Rouge.~~

28 (5) In the case of an agreement between the state collector and taxpayer, then
 29 by the ~~district~~ court of appeal as stipulated in the agreement.

1 B. A judgment of the board in a case against a local collector may be
2 reviewed as follows:

3 (1) In the court of appeal for the parish where the tax being litigated is
4 levied, except as provided for in Paragraph (2) of this Subsection.

5 (2) In the case of an agreement between the local collector and taxpayer,
6 then by the court of appeal as stipulated in the agreement.

7 C. A judgment of the board in cases that have been consolidated by a joint
8 motion of all parties, including a state collector, may be reviewed as provided for in
9 Subsection A of this Section.

10 D. A judgment of the board in cases that have been consolidated by a joint
11 motion of all parties may be reviewed as provided for in Subsection B of this
12 Section, with the parish of venue designated in the joint motion.

13 §1437. Effect of final judgment

14 A. When the decision or judgment of the board which has become final
15 contains a finding that the taxpayer is liable for the payment of an amount of tax,
16 interest and penalty, such amount shall be paid by the taxpayer upon notice and
17 demand from the collector, and shall be collectible by distraint and sale, as provided
18 in R.S. 47:1570 through 47:1573 1573, or 337.57 through 337.60, or any other means
19 provided for in Chapter 2-D of Subtitle II of this Title for a local collector.

20 B. When the decision or judgment of the board which has become final
21 contains a finding that the taxpayer is entitled to receive a refund or credit of an
22 overpayment, the collector shall promptly enter the credit or make the refund, as the
23 case may be.

24 * * *

25 §1451. Waiver of penalties

26 ~~Whenever~~ Except as otherwise provided by law, whenever the state collector
27 determines to waive or remit the whole or any part of the penalty provided for failure
28 to file any return at the time it became due, the collector's determination ~~thereon,~~
29 ~~together with the taxpayer's affidavit stating the cause of his delay in filing,~~ shall be
30 submitted to the board for review. If the board finds that the penalty may properly

1 be waived or remitted pursuant to ~~R.S. 47:1566~~ applicable law, it shall approve the
 2 action of the collector. Otherwise the board shall reject the proposal to waive or
 3 remit, and it shall then be mandatory upon the collector to assess and collect the
 4 penalty. Nothing in this Section shall be construed to expand the jurisdiction of the
 5 board to reconsider or review a waiver of penalties or any other discretionary
 6 functions of a local collector.

7 Section 3. 49:968(B)(9) is hereby amended and reenacted to read as follows:

8 §968. Review of agency rules; fees

9 * * *

10 B. Prior to the adoption, amendment, or repeal of any rule or the adoption,
 11 increasing, or decreasing of any fee, the agency shall submit a report relative to such
 12 proposed rule change or fee adoption, increase, or decrease to the appropriate
 13 standing committees of the legislature and the presiding officers of the respective
 14 houses as provided in this Section. The report shall be so submitted on the same day
 15 the notice of the intended action is submitted to the Louisiana Register for
 16 publication in accordance with R.S. 49:953(A)(1). The report shall be submitted to
 17 each standing committee electronically if electronic means are available. If no
 18 electronic means are available, the report shall be submitted at the committee's office
 19 in the state capitol by certified mail with return receipt requested or by messenger
 20 who shall provide a receipt for signature. The electronic receipt by the committee,
 21 return receipt or the messenger's receipt shall be proof of receipt of the report by the
 22 committee.

23 * * *

24 (9) The Department of Civil Service and all of the agencies made a part of
 25 it shall submit the report to the House Committee on House and Governmental
 26 Affairs and the Senate Committee on Senate and Governmental Affairs; however,
 27 the Board of Tax Appeals shall submit the report to the House Committee on Ways
 28 and Means and the Senate Committee on Revenue and Fiscal Affairs.

29 * * *

1 Section 4. R.S. 36:4(B)(1)(p) and R.S. 47:337.51.1 and 337.101(A)(2)(c), (B), and
2 (C) are hereby repealed.

3 Section 5. The members of the Board of Tax Appeals on the effective date of this
4 Act shall continue to serve in such capacity at the pleasure of the governor until the
5 appointments to fixed terms are made in accordance with the provisions of this Act.

6 Notwithstanding any provision of law to the contrary, a member of the board shall
7 be eligible for any assignment or appointment made pursuant to Article V, Section 5 of the
8 Constitution of Louisiana, and ad hoc service pursuant to that Section shall not render a
9 retired judge ineligible for an ad hoc appointment pursuant to R.S. 47:1417(C)(2).

10 If any member of the board serving on the effective date of this Act is appointed to
11 a fixed term pursuant to the provisions of this Act, his appointment shall not require
12 additional confirmation by the Senate if he was confirmed or reconfirmed prior to the
13 effective date of this Act. The additional compensation of the hearing judge of the Local Tax
14 Division shall initially be equivalent to the compensation provided by the state for a
15 part-time city court judge.

16 Section 6. Within thirty days of the effective date of this Act, anyone with a matter
17 pending before an arbitration panel or who has properly and timely mailed a request for
18 arbitration that is pending, pursuant to R.S. 47:337.51.1 as it existed prior to this Act, may
19 exercise any right granted to appeal to the Board of Tax Appeals for those matters within the
20 jurisdiction of the Board of Tax Appeals pursuant to this Act, or may pay under protest in
21 accordance with R.S. 47:337.63 and 337.64. An appeal may be taken from an arbitration
22 decision rendered prior to the effective date of this Act pursuant to R.S. 47:337.51.1(C) as
23 it existed prior to this Act. The suspension of any collection action by the collector and the
24 suspension of the running of prescription pursuant to R.S. 47:337.51.1(A)(2) as it existed
25 prior to this Act shall terminate on July 31, 2014.

26 Section 7. Upon the joint motion of all parties, a district court may transfer to the
27 Board of Tax Appeals for adjudication, any matter pending before it on the effective date of
28 this Act if the matter falls within the jurisdiction of the board following the effective date
29 of this Act. For a period of one year following the effective date of this Act, a district court
30 may transfer to the board any matter improperly filed in the district court which should have

1 been filed with the board, and the matter shall be deemed to have been filed with the board
2 on the date of its filing in the district court.

3 Section 8. The one hundred eighty day deadline to appeal a local collector's inaction
4 on a refund claim to the Board of Tax Appeals pursuant to R.S. 47:337.81(A)(2) shall not
5 restrict any appeal filed with the Board of Tax Appeals prior to January 1, 2015.

6 Section 9. Any case filed with the Board of Tax Appeals against a local collector
7 prior to January 1, 2015, shall be heard in the board's Local Tax Division pursuant to the
8 provisions of R.S. 47:1403(B)(6)(a) unless the local collector in its initial answer to the
9 taxpayer's petition prays to have the case heard by the entire board.

10 Section 10. The nomination or nominations made pursuant to R.S. 47:1402(D) may
11 be transmitted to the governor, and any appointments pursuant to that Section may be made
12 at any time following the effective date of this Act.

13 Section 11. Any appeal from a judgment or decision of the board shall be deemed
14 to be governed by the provisions of Chapter 17 of Title 47 of the Louisiana Revised Statutes
15 of 1950, as amended, as in effect on the date that the appeal is filed.

16 Section 12. This Act shall become effective upon signature by the governor or, if not
17 signed by the governor, upon expiration of the time for bills to become law without signature
18 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana.
19 Section 10 of this Act shall become operative immediately upon the effective date of this
20 Act, and Sections 1 through 9 of this Act shall become operative on July 1, 2014, if the Act
21 which originated as House Bill No. 798 of this 2014 Regular Session of the Legislature is
22 enacted.

1 If vetoed by the governor and subsequently approved by the legislature, this Act shall
2 become effective on July 1, 2014, or on the day following such approval by the legislature,
3 whichever is later.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____