
DIGEST

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HB 561 Original

2020 Regular Session

Dwight

Abstract: Provides for the administration, enforcement, and adjudication of state and local taxes and for the jurisdiction of the Board of Tax Appeals.

Present law authorizes the collector to take a rule on a taxpayer to show cause in not less than two nor more than 10 days, exclusive of holidays, why the taxpayer should not be ordered to cease from further business pursuits for failure to pay to the taxing authority sales and use tax amounts collected from others along with any interest, penalty, and costs related to the tax. Present law authorizes the Board of Tax Appeals (BTA) or a court to render a money judgment against the taxpayer in favor of the collector in the amount of any final and nonappealable assessment, together with all penalties, interest, attorney fees and costs.

Proposed law retains present law.

Present law limits the rule to amounts due as a result of assessments or judgments which have become final and nonappealable.

Proposed law retains present law but extends authority for the rule to also apply to amounts shown to have been actually collected from others and not remitted to the collector.

Proposed law provides that neither the collector's consent to a continuance request nor the collector's failure to object to the date that any court or the BTA sets for the hearing date of a rule brought pursuant to present law shall be considered a waiver of the collector's right to proceed nor be deemed to convert a summary proceeding into an ordinary proceeding.

Present law authorizes the establishment of the BTA, as an independent agency in the Dept. of State Civil Service, to hear and decide, at a minimum of expense to the taxpayer, questions of law and fact arising from disputes or controversies between a taxpayer and any state collector in the enforcement of any tax, excise, license, permit or any other tax, fee, penalty, receipt or other law administered by a collector, and to exercise other jurisdiction as provided by law.

Proposed law retains present law but extends jurisdiction of the BTA to controversies between a taxpayer and political subdivisions of the state and removes references to the BTA being an independent agency within the Dept. of State Civil Service.

Present law extends the jurisdiction of the BTA to all matters relating to appeals for the redetermination of assessments, the determination of overpayments, or payment under protest

petitions. Additionally extends jurisdiction of the BTA to all matters related to state or local taxes or fees, or other jurisdiction provided by present law, including rules to seek uniformity of interpretation of common sales and use tax law or local sales and use tax law and petitions concerning the validity of a collector's rules, regulations, or private letter rulings.

Proposed law retains present law but specifically extends jurisdiction of the BTA to rules to cease business, ordinary collection suits, summary tax proceedings and other matters in accordance with present law.

Present law establishes a procedure for a taxpayer to appeal to the BTA including the filing of a payment under protest petition. Present law prohibits an aggrieved party from petitioning the BTA to declare a law unconstitutional on the basis of its failure to meet the constitutional requirements for the passage of laws by the legislature.

Proposed law retains present law but authorizes any collector, taxpayer, or other aggrieved party to file a petition or pleading with the BTA for any matter within the jurisdiction of the BTA.

Present law authorizes any party to file a motion for the review of a decision of the BTA by the appropriate appellate court within 30 days of the signing of a decision or judgment by the BTA.

Proposed law retains present law but specifies that the 30-day period for appealing a decision of the BTA begins from the mailing of the notice of the judgment. Further provides that the date of actual receipt of a hand-delivered notice shall be deemed the date of mailing in the event the notice of judgment is hand delivered in lieu of mailing.

(Amends R.S. 47:337.33(A)(1) and (5), 1401, 1407(1) and (3), 1408(D)(1), and 1434(A); Adds R.S. 47:337.33(E) and 1431(E))