

Regular Session, 2013

SENATE BILL NO. 230

BY SENATOR RISER

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

TAX/TAXATION. Creates the Tax Court to replace the Louisiana Board of Tax Appeals and expands its jurisdiction to local tax matters. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 26:354(I), 492(A), R.S. 36:458(F), R.S. 39:51.1(A)(1)(b), R.S.

3 47:15(14), 32(C), 114(F)(3), 295(C), 303(B)(5)(d), 303.1(G), 305.14(C), 305.18(C),

4 305.20(E), 305.53(2), 337.2(B)(1), (C)(4)(b)(iii), and (D), 337.27, 337.51, 337.54,

5 337.56, 337.63, 337.67, 337.77(F), 337.81, 647(B), Chapter 17 of Subtitle II of Title

6 47 to be comprised of R.S. 47:1401-1486, 1508.1(B), 1561, 1565, 1566(C), 1567,

7 1578 (B), 1580(A)(3), 1603(A), 1621(F), 1621.1(A), 1625, 1626, 1627, 1688, and

8 1689, and R.S. 49:967(A), R.S. 51:1310(C), and to enact R.S. 36:53(J) and 812, R.S.

9 47:337.2(A)(1)(c) and 337.81-A, and R.S. 49:992(D)(10), and to repeal R.S.

10 36:4(B)(1)(p), R.S. 47:337.51.1, relative to disputes concerning taxes, fees, and

11 claims against the state and its political subdivisions; to rename the Board of Tax

12 Appeals; to provide for the composition, organization, procedures, jurisdiction, and

13 operation of the Tax Court; to provide for certain limitations; to provide for

14 implementation; to provide for the jurisdiction of the Tax Court; to provide for

15 transitional provisions; to provide for effective dates; and to provide for related

16 matters.

17 Be it enacted by the Legislature of Louisiana:

1 Section 1. R.S. 26:354(I) and 492(A) are hereby amended and reenacted to read as
2 follows:

3 §354. Payment and reporting of taxes; discounts; rules and regulations;
4 enforcement; forfeitures and penalties; redemption of tax stamps

5 * * *

6 I. With respect to the twenty percent penalty provided in this Section, the
7 wholesale dealer shall have the right to send a signed application for a waiver of said
8 penalty, which application shall be provided in affidavit form setting forth the
9 reasons for the failure to pay the taxes within the specified time. **If the failure to**
10 **pay the tax when due is explained to the satisfaction of the secretary, he may,**
11 **remit or waive payment of the whole or any part of any penalty due under the**
12 **provisions of this Chapter.** ~~Any such application must be provided directly to the~~
13 ~~secretary, and after review by him it shall be processed with his recommendations~~
14 ~~and provided to the Board of Tax Appeals for approval or disapproval. The Board~~
15 ~~of Tax Appeals shall notify the secretary in writing of its decision with respect~~
16 ~~thereto.~~

17 * * *

18 §492. Local gallonage tax on beverages of low alcoholic content

19 A. Any parish or municipality, through its local governing body, may impose
20 a tax on beverages of low alcoholic content of not more than one dollar and fifty
21 cents per standard barrel of thirty-one gallons. The tax shall be based on the amount
22 of these beverages sold and consumed within the parish or municipality. Parishes
23 and municipalities imposing this tax shall furnish the secretary a certified copy of the
24 ordinance levying it. The secretary shall collect the tax in the same manner as he
25 collects the state tax and shall make such additional rules as are necessary. He shall
26 remit, each quarter, the amount of tax collected less the cost of collection, to the
27 parishes and municipalities levying the tax. If the failure to pay the tax when due is
28 explained to the satisfaction of the secretary, he may, ~~with the approval of the Board~~
29 ~~of Tax Appeals,~~ remit or waive payment of the whole or any part of any penalty due

1 under the provisions of this Chapter.

2 * * *

3 Section 2. R.S. 36:458(F) is hereby amended and reenacted and R.S. 36:53(J) and
4 812 are hereby enacted to read as follows:

5 §53. Transfer of ~~boards~~ **courts**, commissions, departments, and agencies to
6 Department of State Civil Service

7 * * *

8 **J. The Tax Court (R.S. 47:1401 et seq.) is placed within the Department**
9 **of State Civil Service and shall exercise and perform its powers, duties,**
10 **functions, and responsibilities in the manner provided for agencies transferred**
11 **in accordance with R.S. 36:812.**

12 * * *

13 §458. Offices; purposes and functions

14 * * *

15 F. The office of legal affairs shall be responsible, in accordance with the
16 applicable laws and under the direction of the secretary, for providing legal
17 consultation and representation in tax litigation matters before the state and federal
18 courts, and the ~~Board of Tax Appeals~~ **Tax Court**, bankruptcy cases in the federal
19 bankruptcy courts, and any matters related thereto. Whenever the secretary deems
20 necessary, he may reassign the responsibility for the collection of a tax or other duty
21 assigned by this Subsection to this office to another office within the department
22 created by this Section.

23 * * *

24 **§812. The Tax Court**

25 **The Tax Court placed within the Department of State Civil Service by**
26 **the provisions of R.S. 36:53(J) shall be placed within the department as**
27 **provided in R.S. 36:801. In addition the State Civil Service Commission, the**
28 **Department of State Civil Service, and the director shall in no way interfere**
29 **with, review, or change the decisions of the Tax Court.**

1 Section 3. R.S. 39:51.1(A)(1)(b) is hereby amended and reenacted to read as
2 follows:

3 §39:51.1. General Appropriation Bill and other appropriation bills;
4 nongovernmental entity funding request form; exemptions

5 A.(1) * * *

6 (b) The provisions of this Section shall not apply to appropriations for the
7 payment of money judgments against the state, including consent judgments,
8 stipulated judgments, judgments rendered by the ~~Board of Tax Appeals~~ **Tax Court**,
9 and other judgments against the state.

10 * * *

11 Section 4. R.S. 47:15(14), 32(C), 114(F)(3), 295(C), 303(B)(5)(d), 303.1(G),
12 305.14(C), 305.18(C), 305.20(E), 305.53(2), 337.2(B)(1), (C)(4)(b)(iii), and (D), 337.27,
13 337.51,337.54, 337.56, 337.63, 337.67, 337.77(F), 337.81, 647(B), Chapter 17 of Subtitle
14 II of Title 47 to be comprised of R.S. 47:1401-1486, 1508.1(B), 1561, 1565, 1566(C), 1567,
15 1578 (B), 1580(A)(3), 1603(A), 1621(F), 1621.1(A), 1625, 1626, 1627, 1688, and 1689, is
16 hereby amended and reenacted, R.S. 47:337.51.1 is hereby repealed, and R.S.
17 47:337.2(A)(1)(c) and 337.81-A, is hereby enacted to read as follows:

18 § 15. Taxpayer's Bill of Rights

19 There is hereby established a Taxpayer's Bill of Rights to guarantee that the
20 rights, privacy, and property of Louisiana taxpayers are safeguarded and protected
21 during tax assessment, collection, and enforcement processes administered under the
22 tax laws of this state. This Taxpayer's Bill of Rights consists of a statement, in
23 nontechnical terms, of the rights and obligations of the Department of Revenue and
24 taxpayers. The rights afforded taxpayers to assure that their privacy and property are
25 safeguarded and protected during tax assessment and collection are available only
26 insofar as they are implemented in accordance with the Constitution of Louisiana and
27 Louisiana Revised Statutes of 1950 or the administrative rules of the Department of
28 Revenue. The rights assured Louisiana taxpayers are:

29 * * *

1 (14) The right to a hearing in order to dispute an assessment of taxes,
 2 interest, and penalties by timely filing an appeal with the ~~Board of Tax Appeals~~ **Tax**
 3 **Court** ~~in accordance with R.S. 47:1414, 1431, and 1481,~~ **as provided by law.** A
 4 taxpayer shall not be required to pay the disputed tax, interest, and penalties in order
 5 to exercise this right.

6 * * *

7 § 32. Rates of Tax

8 * * *

9 C. The secretary of the Department of Revenue shall administer and enforce
 10 this Part. He may adopt, prescribe, and from time to time alter and enforce
 11 reasonable rules, orders, and regulations for the purpose of implementing this Part.
 12 He may, ~~with the approval of the Board of Tax Appeals,~~ upon making a record of his
 13 reasons therefor, waive, reduce, or compromise any of the taxes, penalties, or interest
 14 or other amounts provided by this Part.

15 * * *

16 §114. Returns and payment of tax

17 * * *

18 F. Penalty provision. (1) * * *

19 * * *

20 (3) If the failure to timely submit the annual return is attributable, not to the
 21 negligence of the taxpayer, but to other causes set forth in written form and
 22 considered reasonable by the secretary, the secretary may remit or waive
 23 payments of the whole or any part of the specific penalty provided for such
 24 failure. ~~In any case where the penalty exceeds five thousand dollars, it can~~
 25 ~~be waived by the secretary only after approval by the Board of Tax Appeals.~~

26 * * *

27 § 295. Tax imposed on individuals; administration

28 * * *

29 C. The secretary of the Department of Revenue shall administer and enforce

1 this Part. He may adopt, prescribe, and from time to time alter and enforce
2 reasonable rules, orders, and regulations for the purpose of implementing this
3 Part. He may, ~~with the approval of the Board of Tax Appeals,~~ upon making
4 a record of his reasons therefor, waive, reduce, or compromise any of the
5 taxes, penalties, or interest or other amounts provided by this Part.

6 * * *

7 §303. Collection

8 * * *

9 B. Collection of tax on vehicles. The tax imposed by R.S. 47:302(A) on the
10 sale or use of any motor vehicle, automobile, motorcycle, truck, truck-tractor, trailer,
11 semi-trailer, motor bus, house trailer, or any other vehicle subject to the vehicle
12 registration license tax shall be collected as provided in this Subsection.

13 * * *

14 (6) A refusal by the secretary of the Department of Revenue to authorize the
15 issuance of a certificate of title or a vehicle registration license may be appealed to
16 the ~~Board of Tax Appeals~~ **Tax Court** within sixty days from the date the application
17 for a certificate of title is denied by the secretary of the Department of Revenue.

18 * * *

19 §303.1. Direct Payment Numbers

20 * * *

21 G. The taxpayer may appeal the secretary's denial or revocation of a DP
22 Number to the ~~board of tax appeals~~ **Tax Court**.

23 * * *

24 §305.14. Exclusions and exemptions; nonprofit organizations; nature of exemption;
25 limitations; qualifications; newspapers; determination of tax exempt
26 status

27 * * *

28 C(1). An exemption certificate must be obtained from the ~~collector of~~
29 ~~revenue~~ **secretary**, under such regulations as he shall prescribe, in order for

1 nonprofit organizations to qualify for the exemption provided in this section.

2 (2)In the event the ~~collector of revenue~~ **secretary** denies tax exempt status
3 under this Section, the organization may appeal such ruling to the ~~Louisiana Board~~
4 ~~of Tax Appeals~~ **Tax Court**, which may overrule the ~~collector of revenue~~ **secretary**
5 and grant tax exempt status if the ~~Louisiana Board of Tax Appeals~~ **Tax Court**
6 determines that the denial of tax exempt status by the ~~collector of revenue~~ **secretary**
7 was arbitrary, capricious or unreasonable. ~~Provided~~ **However**, ~~that~~ any organization
8 which endorses any candidate for political office or otherwise is involved in political
9 activities shall not be eligible for the exemption ~~herein~~ provided **by this Section**.

10 * * *

11 §305.18. Exclusions and exemptions; fairs, festivals, and expositions sponsored by
12 nonprofit organizations; nature of exemption; limitations;
13 qualifications

14 * * *

15 C.(1) An exemption certificate must be obtained from the ~~collector of~~
16 ~~revenue~~ **secretary**, under such regulations as he shall prescribe, in order for
17 nonprofit organizations to qualify for the exemption provided in this section.

18 (2) In the event the ~~collector of revenue~~ **secretary** denies tax exempt status
19 under this Section, the organization may appeal such ruling to the ~~Board of Tax~~
20 ~~Appeals~~ **Tax Court**, which may overrule the ~~collector of revenue~~ **secretary** and
21 grant tax exempt status if the ~~Board of Tax Appeals~~ **Tax Court** determines that the
22 denial of tax exempt status by the ~~collector of revenue~~ **secretary** was arbitrary,
23 capricious or unreasonable. ~~Provided~~ **However**, ~~that~~ any organization which endorses
24 any candidate for political office or otherwise is involved in political activities shall
25 not be eligible for the exemption herein provided.

26 * * *

27 §305.20. Exclusions and exemptions; Louisiana commercial fishermen

28 * * *

29 E. When a commercial fisherman objects to a refusal of the Department of

1 Revenue to issue a certificate under this Section, he may appeal such ruling to the
2 ~~Board of Tax Appeals~~ **Tax Court**, which may overrule the secretary and grant tax
3 exempt status if there is a determination that the denial was arbitrary, capricious, or
4 unreasonable.

5 * * *

6 §305.53. Exclusions and exemptions; sickle cell disease organizations

7 * * *

8 B.

* * *

9 (2) In the event the secretary denies tax exempt status under this Section, the
10 organization may appeal such ruling to the ~~Louisiana Board of Tax Appeals~~ **Tax**
11 **Court**, which may overrule the secretary and grant tax exempt status to the
12 organization.

13 * * *

14 §337.2. Intent; application and interpretation of Chapter

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

17 * * *

18 **(c) To provide for an impartial, economical, and expeditious forum**
19 **where a taxpayer may choose to resolve disputes arising under sales and use**
20 **taxes imposed by local taxing authorities before the Tax Court in order to**
21 **foster uniformity and consistency in the interpretation and application of such**
22 **taxes.**

23 * * *

24 B.(1) Notwithstanding any other provision of law or local ordinance to the
25 contrary, and except as provided for in Paragraph (3) of this Subsection, the
26 provisions of this Chapter shall apply in the assessment, collection, administration,
27 ~~and enforcement,~~ **and adjudication,** of the sales and use tax of any political
28 subdivision.

29 * * *

1 C. Notwithstanding any other law to the contrary, in order to insure taxpayers
2 of uniformity of tax collection, the regulations applicable to the sales and use tax of
3 the tax authorities provided for in this Chapter shall be the following:

4 * * *

5 (4) * * *

6 (b) * * *

7 (iii) After the regulation is finally adopted, amended, or repealed pursuant to
8 the Administrative Procedure Act, any taxpayer or collector may file an action ~~in any~~
9 ~~court of competent jurisdiction~~ **with the Tax Court** seeking a declaratory judgment
10 to declare such regulatory action contrary to or inconsistent with the statute.

11 * * *

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

18 * * *

19 § 337.27. Venue

20 A. An action to enforce the collection of a sales or use tax, including any
21 applicable interest, penalties, or other charges, levied by a taxing authority may be
22 brought in the parish in which the taxing authority is situated.

23 **B. In lieu of appealing to the district court, a taxpayer may file a petition**
24 **with the Tax Court, with venue as provided by law therefor.**

25 * * *

26 §337.51. Notice of assessment and right to appeal or arbitration

27 A. Having assessed the amount determined to be due, the collector shall send
28 a notice by certified mail to the taxpayer against whom the assessment is imposed
29 at the address given in the last report filed by said taxpayer, or to any address

1 obtainable from any private entity which will provide such address free of charge or
 2 from any federal, state, or local government entity, including but not limited to the
 3 United States Postal Service or from the United States Postal Service certified
 4 software. If no report has been timely filed, the collector shall send a notice by
 5 certified mail to the taxpayer against whom the assessment is imposed at any address
 6 obtainable from any private entity which will provide such address free of charge or
 7 from any federal, state, or local government entity, including but not limited to the
 8 United States Postal Service or from the United States Postal Service certified
 9 software. This notice shall inform the taxpayer of the assessment and that he has
 10 thirty calendar days from the date of the notice to (a) pay the amount of the
 11 assessment; (b) request mandatory arbitration pursuant to R.S. 47:337.51.1 or; (c)
 12 pay under protest in accordance with R.S. 47:337.63 and file suit as provided for in
 13 that Section or request mandatory arbitration pursuant to R.S. 47:337.51.1 **(d) appeal**
 14 **to the Tax Court for redetermination of assessment.**

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

18 (1) * * *

19 **(d) appeal to the Tax Court for redetermination of assessment.**

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 **the Tax Court or** a court of competent jurisdiction for a redetermination
 29 of the assessment. During this period, the collector shall hold any payment made in

1 an escrow account. If the taxpayer does not appeal, the collector shall immediately
 2 credit such payment to tax collections or proceed to collect from sureties, if any were
 3 given. In the event of an appeal, such payment or demand for payment from sureties
 4 given shall be held in abeyance pending the redetermination or affirmation of the
 5 assessment by the **Tax Court or by a** court which last reviews the matter. Final
 6 payment, or collection from sureties, will be for the amount of the affirmed or
 7 redetermined assessment.

8 * * *

9 §337.54. Assessment and claims in bankruptcy and receivership

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

29 §337.56. Collection by distraint and sale authorized

1 When any taxpayer fails to pay any tax, penalty, and interest assessed **after**
2 **such assessment has become final**, the collector may proceed to enforce the
3 collection thereof by distraint and sale.

4 * * *

5 §337.63. Remittance of tax under protest; suits to recover

6 A.(1)(a) Any taxpayer protesting the payment of any amount found due by
7 the collector or the enforcement of any provision of law in relation thereto shall
8 remit to the collector the amount due and at that time shall give notice of intention
9 to file suit for the recovery of such tax or shall remit to the collector the amount due
10 and ~~make a written request for mandatory arbitration pursuant to R.S. 47:337.51.1~~
11 **give notice of intention to file a claim with the Tax Court as provided for herein.**

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

25 (2) Upon receipt of this notice, the amount remitted to the collector or the
26 amount of protested taxes that have been paid to the selling dealer shall be placed in
27 an escrow account and held by the collector or his duly authorized representative for
28 a period of thirty days. If suit is filed for recovery of the tax ~~or a written request for~~
29 ~~mandatory arbitration is mailed as provided for in R.S. 47:337.51.1~~ , **or a claim is**

1 **filed with the Tax Court for recovery of the tax,** within the thirty-day period, the
2 funds in the escrow account shall be further held pending the outcome of the suit or
3 claim or the arbitration proceeding, or appeal therefrom.

4 (3) If the taxpayer prevails, the collector shall refund the amount to the
5 claimant, with interest at the rate established pursuant to R.S. 47:337.80.

6 B. This Section shall afford a legal remedy and right of action, **as provided**
7 **for herein, in the Tax Court or** in any state court having jurisdiction of the parties
8 and subject matter, for a full and complete adjudication of any and all questions
9 arising in the enforcement of the sales and use tax of a taxing authority as to the
10 legality of any tax accrued or accruing or the method of enforcement thereof. In
11 such action, service of process upon the collector shall be sufficient service, and he
12 shall be the sole necessary and proper party defendant in any such suit.

13 C. This Section shall be construed to provide a legal remedy **in the Tax**
14 **Court or** in the state courts in case such taxes are claimed to be an unlawful burden
15 upon interstate commerce, or the collection thereof, in violation of any Act of
16 Congress or the United States Constitution, or the Constitution of Louisiana.

17 D. Upon request of a taxpayer and upon proper showing by such tax payer
18 that the principle of law involved in an additional assessment is already pending
19 before the courts for judicial determination, or before the **Tax** Court of Tax Appeals,
20 ~~or before an arbitration panel as provided for in R.S. 47:337.51.1;~~ the taxpayer, upon
21 agreement to abide by the decision of the courts, **or the decision of the Tax Court,**
22 **or a final judgment of an appellate court reviewing a timely appeal of the**
23 **decision of the Tax Court,** ~~an arbitration panel, or by a final judgment of a court~~
24 ~~upon a timely appeal of a decision of an arbitration panel;~~ may remit the additional
25 assessment under protest, but need not file an additional suit ~~or claim~~ ~~or make~~
26 ~~another mandatory arbitration request.~~ In such cases, the tax so paid under protest
27 shall be placed in an escrow account and held by the collector until the question of
28 law involved has been determined by the courts, **the Tax Court, or by a final**
29 **judgment of an appellate court reviewing a timely appeal of the decision of the**

1 ~~redetermination. The collector shall render a decision within fifteen thirty days of~~
2 ~~the request by the taxpayer.~~

3 (2) The taxpayer may appeal a denial of a claim for refund ~~a court of~~
4 ~~competent jurisdiction or mail a written request for mandatory arbitration pursuant~~
5 ~~to R.S. 47:337.51.1~~ **to the Tax Court, as provided by law.** No appeal may be filed
6 ~~or request for arbitration made~~ before the expiration of one year from the date of
7 filing such claim unless the collector renders a decision thereon within that time, nor
8 after the expiration of ~~ninety~~ **sixty** days from the date of mailing by certified or
9 registered mail by the collector to the taxpayer of a notice of the disallowance of the
10 part of the claim to which such appeal relates.

11 * * *

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

19 * * *

20 **§337.81-A. Court's finding of overpayment upon appeal from assessment**

21 **Whenever the Tax Court, pursuant to a hearing of an appeal from an**
22 **assessment of the collector in accordance with R.S. 47:337.51, 337.53, or 337.54,**
23 **finds that there is no tax due and further finds that the taxpayer has made a**
24 **refundable overpayment of the tax for the period for which the collector**
25 **asserted the claim for additional tax, the court shall have jurisdiction to**
26 **determine the amount of such overpayment, and order that such amount be**
27 **refunded or credited to the taxpayer; provided, that the court shall order no**
28 **such refund or credit unless, as part of its decision, it determines that the**
29 **petition of appeal in which the refund or credit was requested was filed within**

1 the period set out in R.S. 47:337.79 or that a claim for the refund or credit had
2 been properly filed with the collector within that period.

3 * * *

4 CHAPTER 17. ~~BOARD OF COURT APPEALS~~ TAX COURT

5 PART I. GENERAL PROVISIONS

6 ~~§1401. Creation of board of tax appeals~~

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

14 ~~§1402. Membership of board; qualifications; appointment; term; vacancy; salary~~

15 A. ~~The Board shall be composed of three members who shall be qualified~~
16 ~~electors of the state. Each member shall be appointed by the governor and shall~~
17 ~~serve at the pleasure of the governor. Vacancies shall be filled in the manner of the~~
18 ~~original appointment.~~

19 B. ~~Each appointment to the board by the governor shall be submitted to the~~
20 ~~Senate for confirmation.~~

21 C. ~~The term of members in office prior to twelve o'clock noon on July 16,~~
22 ~~1984 shall be deemed to have terminated as of July 16, 1984; however, any such~~
23 ~~member shall remain in office until his successor is appointed and takes office.~~

24 ~~§1403. Designation of chairman; domicile; quorum; seat~~

25 A. ~~The governor shall designate a chairman from the membership of the~~
26 ~~Board.~~

27 B. ~~The principal office and domicile of the board shall be at Baton Rouge,~~
28 ~~Louisiana. The board may hold meetings at any place within the state, and any~~
29 ~~member, when designated by the chairman, may conduct hearings for the purpose~~

1 of receiving testimony and reporting his findings of fact to the board for decision or
2 judgment. ~~The time and place of meetings and hearings shall be designated by the~~
3 ~~chairman, with a view of securing reasonable opportunity to taxpayers to appear~~
4 ~~before the board with as little inconvenience and expense to taxpayers as is~~
5 ~~practicable.~~

6 C. ~~A majority of the members of the board shall constitute a quorum for the~~
7 ~~transaction of the business of the board, except as otherwise provided in this Chapter.~~
8 ~~A vacancy in the board shall not impair the powers nor affect the duties of the board,~~
9 ~~nor of the remaining members of the board.~~

10 D. ~~The board shall have a seal which shall be judicially noticed. Such seal~~
11 ~~may be used to authenticate the official acts of the board or any member thereof, but~~
12 ~~failure to use the seal shall not invalidate any such act.~~

13 ~~§1404. Employees of the board~~

14 ~~The board shall appoint as its principal assistant a secretary-clerk who shall~~
15 ~~be custodian of its files and records, and one private secretary who may also be the~~
16 ~~stenographer-reporter for the board. The board shall also appoint any other~~
17 ~~employees necessary for the performance of the functions herein delegated. The~~
18 ~~board shall fix the salaries of the secretary-clerk, stenographer-reporter and other~~
19 ~~employees.~~

20 ~~§1405. Retention of records and property by the board~~

21 ~~All books, papers, records, moneys and other property, heretofore used or~~
22 ~~possessed by the board as heretofore existing, shall be retained by that board as it is~~
23 ~~created and continued herein.~~

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 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.~~

1 ~~§1407. Jurisdiction of the board~~

2 ~~The jurisdiction of the board shall extend to the following:~~

3 ~~(1) All matters relating to appeals for the redetermination of assessments, or~~
4 ~~for the determination of overpayments, as provided in R.S. 47:1431 through 47:1438.~~

5 ~~(2) All matters relating to the waiver of penalties, as provided in R.S.~~
6 ~~47:1451.~~

7 ~~(3) Repealed by Acts 1972, No. 128, §3, emerg. eff. June 27, 1972 at 1:15~~
8 ~~P.M.~~

9 ~~(4) All matters relating to claims against the state, as provided in R.S.~~
10 ~~47:1481 through 47:1486.~~

11 ~~§1408. Power to administer oaths and issue subpoenas~~

12 ~~For purposes of enforcing or administering this Chapter, any member of the~~
13 ~~board, or the secretary-clerk, shall have the power to administer oaths and take~~
14 ~~affidavits, and any member of the board shall have the power to subpoena and~~
15 ~~require the attendance of witnesses and the production of books, papers and~~
16 ~~documents pertaining to the matter under inquiry, at any designated place of hearing,~~
17 ~~and to examine such witnesses, and may require the taking of deposition before any~~
18 ~~person competent to administer oaths, either within or without the state, upon notice~~
19 ~~to the interested party in like manner that depositions of witnesses are taken in civil~~
20 ~~actions in the district courts of the state. Any party to a matter pending before the~~
21 ~~board may summon witnesses or require the production of papers in the same~~
22 ~~manner as witnesses are summoned, or papers required to be produced in civil~~
23 ~~actions in the district courts of the state.~~

24 ~~In case of failure of any person to comply with any subpoena issued under~~
25 ~~authority of this Chapter, or the refusal of a witness to testify to any matter regarding~~
26 ~~which he may be lawfully interrogated, the judge of the district court of the parish~~
27 ~~in which such person resides, or the parish in which such person may be personally~~
28 ~~served, on application of the board or any member thereof, shall compel obedience~~
29 ~~by ordering the issuance of an instanter subpoena, or other appropriate process for~~

1 contempt, or a rule as in the case of disobedience of the requirements of a subpoena
2 issued from such court or a refusal to testify therein.

3 ~~§1409. Witness fees and mileage~~

4 Any person summoned or whose deposition is taken shall receive the same
5 fees and mileage as would be allowed in a civil action pending in the district courts
6 and the expense thereof shall be paid by the person summoning such witness or
7 causing the deposition to be taken.

8 ~~§1410. Findings of fact, decisions, and opinions~~

9 The board shall, in each case heard by it, or in any matter referred to it by the
10 collector or in each case submitted to it upon stipulations of agreement and fact,
11 make findings of fact and make and file a written decision or judgment thereon. The
12 board may, in its discretion, issue an opinion in writing in addition to its findings of
13 fact and decision or judgment.

14 ~~§1411. Documents to be served by registered mail~~

15 All papers or documents filed with the board which are required by law to be
16 served upon opposing party or which because of a prayer contained therein, are
17 asked to be served upon the opposing party or any counsel of record representing the
18 taxpayer, or upon the collector or his counsel of record, may be served by registered
19 mail, return receipt requested, and such service shall be valid for all purposes under
20 this Chapter.

21 ~~§1412. Rules of evidence~~

22 The rules of evidence which the board shall adopt as those binding upon it
23 shall be those rules of evidence followed in the district courts of Louisiana.

24 **§1401. Purpose**

25 **The purpose of this Chapter is to provide for an impartial, economical,**
26 **and expeditious forum where parties may resolve disputes arising under certain**
27 **state and local tax laws as provided in this Chapter before a judge experienced**
28 **in tax matters, while fostering uniformity and consistency in the interpretation**
29 **and application of state and local tax law.**

1 **§1402. Definitions**

2 As used in this Chapter, unless the context requires otherwise, the
3 following terms shall have the following meanings:

4 (1) "Clerk" means the clerk of the Tax Court.

5 (2) "Collector" means and includes:

6 (a) The secretary of the Department of Revenue including the
7 secretary's duly authorized assistants, when used in reference to any tax or fee
8 administered by the department within the jurisdiction of the Tax Court.

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

13 (c) The individual or entity designated as the collector of the taxes of any
14 political subdivision and his duly authorized assistants when used in reference
15 to a tax levied by the political subdivision within the jurisdiction of the Tax
16 Court.

17 (d) The agent or successor to any of the above, including any unified
18 State and Local Tax Commission which may be created to serve as a unitary
19 collector.

20 (3) "Court" or "Tax Court" means the Tax Court established pursuant
21 to the provisions of this Chapter as successor to the Board of Tax Appeals.

22 (4) "Division" means the small claims division of the Court.

23 (5) "Judge" means a Judge of the Tax Court.

24 (6) "Local taxing authority" means and includes any political
25 subdivision when used in reference to the application of a tax levied by the
26 political subdivision to a specific transaction.

27 (7) "Political subdivision" means any of the following entities which are
28 authorized by the constitution or law to levy and collect a tax which is within the
29 jurisdiction of the Court: parish, municipality, school board, any other unit of

1 local government, and any special district whose boundary is not coterminous
2 with the state.

3 §1403. Tax Court established

4 The Tax Court shall be an independent agency within the executive
5 branch of state government, as provided for in R.S. 36:53(J) and 812.

6 §1404. Tax Judges; nomination; appointment; term; vacancy; compensation;
7 retirement age

8 A.(1) The Tax Court shall consist of three Tax Judges. The judges shall
9 be appointed by the Governor after nomination by the Legislature. Each judge
10 shall be a citizen of the state, have been admitted to the practice of law in the
11 state for at least five years prior to his appointment, and meet either of the
12 following criteria:

13 (a) Be recognized as a Board Certified Tax Specialist by the Louisiana
14 Board of Legal Specialization of the Louisiana State Bar Association.

15 (b) Possess a Masters of Law (LLM).

16 (c) Possess seven years tax experience.

17 (2) A Judge shall not provide legal representation regarding the matter
18 of any tax or fee under the jurisdiction of the court. The Judge shall be a
19 full-time unclassified employee of the court and devote all of his time to his
20 duties under this Chapter. No Tax Judge may engage in the practice of law or
21 hold any other public office or employment.

22 (3) Each Judge shall receive the same compensation and benefits as
23 district court judges. The judges of the Tax Court shall be subject to the same
24 mandatory retirement age as district court judges.

25 B.(1) The first judge appointed under this section shall serve until
26 January 1, 2018, and his successor shall thereafter be appointed for a term of
27 six years.

28 (2) The second judge appointed under this section shall serve until
29 January 1, 2019, and his successor shall thereafter be appointed for a term of

1 six years.

2 (3) The third judge appointed under this section shall serve until January
3 1, 2017, and his successor shall thereafter be appointed for a term of six years.

4 (4) At the time of initial appointment, at least one judge appointed
5 should be a resident of a parish in a different court of appeal circuit of the state
6 from the remaining judges.

7 (5) The Judicial Council of the Supreme Court of Louisiana shall advise
8 the Legislature when the caseload of the Tax Court necessitates the creation of
9 additional judgeships or a Magistrate for the Small Claims Division. However,
10 the legislature shall not be required to enact legislation concerning this
11 recommendation.

12 §1405. Chief judge

13 The governor shall designate a judge of the Court to serve as chief judge,
14 for such term as he may direct. The chief judge shall administer the affairs of
15 the court and coordinate hearing assignments in accordance with the rules
16 adopted by a majority of the judges of the Court. The chief judge may delegate
17 administrative duties to the judges and employees of the court.

18 §1406. Domicile; sessions; seal

19 A.(1) The principal office and domicile of the Court, including its small
20 claims division and including the physical location of the clerk of the court,
21 shall be in East Baton Rouge Parish. The state shall provide the court with
22 adequate offices and a courtroom, provided that the offices and courtroom are
23 not within a facility occupied by the Department of Revenue.

24 (2) The court, including the division, may hold sessions at any place
25 within the State. The time and place of court sessions shall be designated by the
26 presiding judge, each with a view to securing reasonable opportunity for the
27 parties to appear before the court with as little inconvenience and expense to the
28 parties as is practicable.

29 (3) Upon request of a judge, a Court of Appeal of the State shall provide

1 room in their courthouse for the hearings of the Court, including the division.

2 B. The court shall have a seal which shall be judicially noticed. The seal
3 may be used to authenticate the official acts of the court or any judge thereof,
4 but failure to use the seal shall not invalidate any such act.

5 §1407. Staff; duties; bond

6 A. The staff of the Tax Court shall consist of a clerk and other staff who
7 shall be employed by the judges of the Court. The clerk of the Tax Court and
8 any law clerks appointed shall be unclassified employees of the court. The duties
9 of the clerk and staff shall be such as are fixed by law or the Rules of the Court,
10 or as assigned by the chief judge.

11 B. The clerk shall serve as the clerk of the Tax Court, including the small
12 claims division, and shall be an ex officio notary public for the purposes of the
13 court, including the division. The clerk shall give bond with good and solvent
14 surety conditioned upon the faithful performance of his duties in the sum of ten
15 thousand dollars. The clerk shall be the custodian of the docket and records of
16 all proceedings in the Tax Court, including the small claims division.

17 C.(1) In the discharge of the duties imposed by this Chapter, the clerk
18 and any duly authorized staff of the court may administer oaths and
19 affirmations, take depositions, certify official acts, and issue subpoenas to
20 compel the attendance of witnesses and the production of books, papers, and
21 other documents deemed necessary as evidence in connection with any
22 proceeding under this Chapter. Any subpoena issued pursuant to this Chapter
23 may be served by any person duly authorized by the clerk.

24 (2) No clerk or other employee of the court shall act as an attorney,
25 counselor, or accountant in the matter of any tax or fee within the jurisdiction
26 of the court.

27 §1408. Docket; records

28 The Tax Court and the small claims division shall each keep a docket of
29 cases and proceedings before it. A record and transcript of each proceeding

1 shall be made and kept by the clerk of court.

2 §1409. Jurisdiction; exceptions

3 A. The Tax Court shall have jurisdiction to hear and determine:

4 (1) A question of law or fact arising under the tax laws of the state
5 administered by the Department of Revenue, or its successor, including
6 penalties, interest, fees imposed by the state not specifically excepted by this
7 Chapter, and costs related thereto, claims for refund of an overpayment or
8 credit, and claims against the state pursuant to R.S. 47:1481 et seq.

9 (2) A question of law or fact arising under a local sales and use tax,
10 occupational license tax, hotel or motel occupancy tax, or automobile rental tax
11 authorized by law and imposed by ordinance adopted by a political subdivision,
12 including penalties, interest, fees, and costs related thereto, and claims for
13 refund of an overpayment or credit.

14 (3) A question of law or fact arising from any state or local fee
15 administered or collected by the Department of Revenue, or its successor, which
16 is not specifically excluded in this Paragraph. The following fees are excluded:

17 (a) Alcoholic beverage and tobacco permit fees.

18 (b) Charitable gaming fees.

19 (4) A question of law or fact arising from any tax on the sale, lease,
20 rental, or use of a vehicle pursuant to R.S. 47:303(B), any vehicle registration
21 license fee or tax under Chapter 4 of Subtitle II of this Title, or any vehicle
22 certificate of title fee under Chapter 4 of Title 32 of the Louisiana Revised
23 Statutes of 1950.

24 (5) Any matter over which the Tax Court has jurisdiction transferred to
25 the Tax Court by a district court.

26 (6) Any matter over which the Tax Court has jurisdiction removed from
27 the small claims division.

28 (7) An action by a taxpayer or collector seeking a judgment declaring
29 that a rule of a Collector applicable to a tax or fee within the jurisdiction of the

1 court is contrary to or inconsistent with law.

2 B. The small claims division shall have concurrent jurisdiction with the
3 Tax Court when the amount in dispute, exclusive of penalties, interest, fees, and
4 costs, is less than five thousand dollars, in the aggregate.

5 C. The jurisdiction of the Tax Court, including the small claims division,
6 shall not extend to:

7 (1) Ad valorem taxes within the jurisdiction of the Louisiana Tax
8 Commission or other property taxes.

9 (2) Insurance premium taxes.

10 (3) Gaming taxes levied by or pursuant to Title 27 of the Louisiana
11 Revised Statutes of 1950.

12 (4) The collection or enforcement of any final nonappealable assessment
13 or judgment.

14 (5) Any matter brought by a taxpayer where the taxpayer has not
15 exhausted all other administrative remedies available, unless the taxpayer had
16 paid the amount in dispute under protest or has provided bond or other security
17 pursuant to and authorized by law.

18 (6) Any criminal matter.

19 (7) Any claim for damages or other action in tort.

20 (8)(a) The determination of any constitutional issue raised by any party
21 or the court; however, with the consent of the parties or when ordered by the
22 district court, the court may develop a record on the issue, certify the question
23 to the district court, and make a recommendation to the district court. In
24 addition, any party may seek a declaratory judgment in district court on any
25 constitutional issue.

26 (b) If a constitutional issue is raised in the small claims division, on
27 motion of any party, or by the court, the matter shall be removed to the Tax
28 Court and the issue considered as provided in Subparagraph (a) of this
29 Paragraph.

1 **(9) Any matter involving the issuance or validity of a bond, or other**
2 **financing, by the State or a political subdivision of the State.**

3 **§1410. Venue for proceedings; place of hearing**

4 **A. The parish of venue for a Tax Court proceeding shall be as follows:**

5 **(1) The parish of venue for proceedings brought against the state shall**
6 **be in East Baton Rouge Parish.**

7 **(2) The parish of venue for proceedings brought against a local taxing**
8 **authority shall be in the parish where the tax being litigated is levied.**

9 **(3) The parish of venue for proceedings brought against the state and**
10 **one or more local taxing authorities, shall be either in East Baton Rouge Parish**
11 **or any parish where the tax being litigated is levied, to be determined by the**
12 **presiding judge in a judgment, with a view to securing reasonable opportunity**
13 **to the parties and their witnesses to appear before the court with as little**
14 **inconvenience and expense to the parties as is practicable.**

15 **(4) The parish of venue for proceedings brought against one or more**
16 **local taxing authorities located in more than one parish, shall be in any parish**
17 **where the tax being litigated is levied, to be determined by the presiding judge**
18 **in a judgment, with a view to securing reasonable opportunity to the parties and**
19 **their witnesses to appear before the court or division with as little inconvenience**
20 **and expense to the parties as is practicable.**

21 **B. Venue for judicial review of Tax Court judgments shall be as follows:**

22 **(1) The judgments of the Tax Court, shall be subject to judicial review**
23 **by appeal to the state Court of Appeal circuit for the parish of venue.**

24 **(2) In determining venue under Paragraph (A)(3) of this Section, the**
25 **court shall consider the convenience of the parties and witnesses and the interest**
26 **of justice, and the First Circuit Court of Appeal is authorized to consider a**
27 **pre-hearing application for supervisory writs from the state related to any**
28 **determination of venue to be in a parish other than the parish of the East Baton**
29 **Rouge.**

1 **(3) Notwithstanding Paragraphs (1) and (2) of this Subsection, for a**
2 **proceeding brought against more than one local taxing authority or against the**
3 **state and one or more taxing authorities, all parties, by joint motion filed with**
4 **the court prior to hearing, may designate the Court of Appeal that will be the**
5 **venue of any judicial review.**

6 **C.(1) The Tax Court's hearing in a case should normally be held in the**
7 **courthouse of the Court of Appeal for the parish of venue, except that the**
8 **hearing of a case with venue in a parish that is within the state's First Circuit**
9 **Court of Appeal should normally be held at the offices of the Tax Court.**

10 **(2) Notwithstanding any provision of law to the contrary, the court,**
11 **including its small claims division, may hold the hearing in a matter:**

12 **(a) At any location in the state provided that all parties to the proceeding**
13 **consent or, if one party requests the location but the request is objected to by**
14 **any other party, the judge shall determine if the request should be granted in**
15 **the best interest of the court and the parties with a view to securing reasonable**
16 **opportunity to the parties and their witnesses to appear before the court with**
17 **as little inconvenience and expense as is practicable. Any such request, objection**
18 **thereto, and determination and reasons therefor shall be in writing and a part**
19 **of the record of the proceeding.**

20 **(b) With the consent of the parties, by telephone, video conference, or**
21 **similar communication equipment, including the administration of oaths in such**
22 **proceedings.**

23 **D. The provisions of R.S. 13:5104 with regard to venue for suits against**
24 **the state and other entities shall not apply to this Chapter.**

25 **§1411. Filing suit; pleading jurisdiction and venue**

26 **A. All matters over which the court has jurisdiction shall be filed with,**
27 **and filing fees paid to, the clerk of the Tax Court.**

28 **B. A suit shall be filed with the clerk of the court, in the manner**
29 **prescribed by the court. The pleadings in the petition shall set forth the basis of**

1 jurisdiction and venue.

2 C. The filing of a suit in a district court of proper venue which is later
3 determined to be a matter actually within the jurisdiction of the Tax Court shall
4 suspend the running of time in which the action must be filed in the Tax Court
5 from the date of the filing in the district court until the date a determination is
6 made.

7 D. To assist taxpayers in filing suit, the court shall develop forms and
8 information, including the small claims division and proceedings therein, and
9 make them available in any reasonable manner the court determines.

10 E.(1) Any paper in an action pursuant to this Chapter may, where
11 available, be filed with the court, or its small claims division, by facsimile or
12 electronic transmission. Filing shall be deemed complete at the time that the
13 facsimile or electronic transmission is received and a receipt of transmission has
14 been transmitted to the sender by the clerk. The facsimile or electronic
15 document when filed has the same force and effect as the original.

16 (2) Within five days, exclusive of legal holidays, after the clerk has
17 received the transmission, the party filing the document shall forward the
18 original signed document, and the applicable filing fees, if any, to the clerk. If
19 a party fails to comply with the requirements of this Paragraph, the facsimile
20 or electronic filing shall have no force or effect. The court may provide, by rule,
21 for other matters related to filings by facsimile or electronic transmissions, and
22 may set a transmission fee of up to five dollars plus up to one dollar per
23 subsequent page.

24 §1412. Procedure

25 A. Except as otherwise specifically provided in this Chapter, proceedings
26 in the Court, including but not limited to discovery shall be governed first by
27 the administrative provisions of Title 47 of the Louisiana Revised Statutes of
28 1950, then by the Code of Civil Procedure to the extent that such provisions do
29 not conflict with administrative provisions of Title 47 of the Louisiana Revised

1 Statutes of 1950.

2 B. When two or more separate proceedings are pending in the court, the
3 court may order consolidation of the proceedings after a contradictory hearing
4 and upon a finding that common issues of fact and law predominate.
5 Consolidation shall not be ordered if it would prevent a fair and impartial
6 hearing, give one party an undue advantage, or prejudice the rights of any
7 party.

8 C. Part XII of Chapter 32 of Title 13 of the Louisiana Revised Statutes
9 of 1950, relative to expedited procedures for actions by or on behalf of the state,
10 or by or on behalf of any of its officers, for the determination or collection of
11 any tax, excise, license, interest, penalty, or attorney fees, claimed to be due
12 under any statute of this state, shall not apply to this Chapter.

13 D. Upon the motion of any party, if a case involves an issue of high
14 importance and significant complexity, the judges of the Tax Court may decide
15 to hear the matter en banc, wherein all the court's judges participate in the
16 adjudication of the case, and a majority must concur to render judgment.

17 E. Except as otherwise specifically provided by law, evidence in the Tax
18 Court shall be governed by the provisions of the Code of Evidence applicable
19 to non-jury trials.

20 F. The court's rules may regulate the requisites of service. All papers or
21 documents filed with the court which are required by law to be served upon
22 opposing party or which because of a prayer contained therein, are asked to be
23 served upon the opposing party or any counsel of record representing the
24 taxpayer, or upon the collector or his counsel of record, may be served by
25 registered mail, return receipt requested, and such service shall be valid for all
26 purposes under this Chapter.

27 §1413. Rules and Regulations

28 In all other matters regarding the conduct of its hearings **and its**
29 administrative affairs, the ~~board~~ **Tax Court** may prescribe and promulgate rules

1 and regulations not inconsistent with law or the provisions of this Chapter, which
2 rules and regulations when prescribed, adopted and promulgated shall be binding
3 upon parties litigant in any cause over which the jurisdiction of this ~~board~~ **Tax Court**
4 shall extend.

5 §1414. Persons authorized to appear before the ~~board~~ **Tax Court**

6 A. Any individual taxpayer or other contestant in a proceeding before the
7 ~~board~~ **Tax Court** may appear and act for himself or for a partnership of which he is
8 a member, and a **legal entity** ~~taxpayer corporation~~ may be represented by a ~~bona fide~~
9 **an authorized** officer **or member** ~~of the corporation~~, upon presentation of adequate
10 identification to the ~~board~~ **Tax Court**, in any proceedings to which the jurisdiction
11 of the ~~board~~ **Tax Court** shall extend.

12 B. Attorneys at law, duly qualified and registered under the laws of the state,
13 shall be entitled to represent any taxpayer or other contestant in any matter to which
14 the jurisdiction of the ~~board~~ **Tax Court** shall extend, provided that the ~~board~~ **Tax**
15 **Court** may, in its discretion, permit attorneys at law, duly qualified and registered
16 under the laws of the several states or the District of Columbia to represent any
17 taxpayer or other contestant in any matter to which the ~~board's~~ **Tax Court's**
18 jurisdiction shall extend, in the same manner as such attorneys are permitted to
19 practice in the courts of Louisiana.

20 C. Certified public accountants duly qualified and licensed under the laws
21 of the state ~~or public accountants~~ shall be entitled to represent any taxpayer or other
22 contestant in any matter to which the jurisdiction of the ~~board~~ **Tax Court** shall
23 extend, provided that the ~~board~~ **Tax Court** may, in its discretion, permit certified
24 public accountants, duly qualified and licensed under the laws of the several states
25 or the District of Columbia ~~and public accountants~~ to represent any taxpayer or other
26 contestant in any matter to which the ~~board's~~ **Tax Court's** jurisdiction shall extend,
27 in the same manner as such certified public accountants are permitted to practice in
28 Louisiana.

29 D. Enrolled agents duly qualified and licensed by the U.S. Department of the

1 Treasury to represent taxpayers before all administrative levels of the Internal
2 Revenue Service who gives evidence of his qualifications satisfactory to the court
3 may represent any taxpayer or other contestant in any matter to which the
4 jurisdiction of the board **Tax Court** shall extend.

5 ~~§1415. Records open to public inspection~~

6 ~~All pleadings and evidence, documentary or otherwise, including the~~
7 ~~transcript of the stenographic report of the hearings held before the board in any~~
8 ~~matter to which its jurisdiction shall extend, shall be public records, open to the~~
9 ~~inspection of the public; except that after the decision of the board in any proceeding~~
10 ~~has become final, the board may, upon motion of the taxpayer or other contestant or~~
11 ~~the collector, permit the withdrawal by the party entitled thereto of originals of~~
12 ~~books, documents, records, models, diagrams and other exhibits, introduced in~~
13 ~~evidence before the board; or the board may, on its own motion, make such other~~
14 ~~disposition thereof as it deems advisable.~~

15 **§1415. Power to administer oaths and issue subpoenas; contempt**

16 **A. For purposes of enforcing or administering this Chapter, each judge**
17 **of the court shall have the power to administer oaths and take affidavits, to**
18 **subpoena and require the attendance of witnesses and the production of books,**
19 **papers, and documents pertaining to the matter under inquiry, to examine**
20 **witnesses at any designated place of hearing, and to require the taking of**
21 **depositions before any person competent to administer oaths, either within or**
22 **without the state, upon notice to the interested party in the same manner that**
23 **depositions of witnesses are taken in civil actions in the district courts of the**
24 **state. Any party to a matter pending before the court may summon witnesses**
25 **or require the production of documents in the same manner as witnesses are**
26 **summoned or documents required to be produced in civil actions in the district**
27 **courts of the state.**

28 **B. In case of failure of any person to comply with any subpoena issued**
29 **under authority of this Chapter, or the refusal of a witness to testify to any**

1 matter regarding which he may be lawfully interrogated, the judge of the
2 district court of the parish in which such person resides, or the parish in which
3 such person may be personally served, on application of the Tax Court, or any
4 judge thereof, or upon motion by any party, shall compel obedience by ordering
5 the issuance of an instanter subpoena, or other appropriate process for
6 contempt, or a rule as in the case of disobedience of the requirements of a
7 subpoena issued from the district court or a refusal to testify therein.

8 ~~§1416. Stenographic reports of hearings~~

9 ~~The board shall, upon the request of any party to a matter before it or may~~
10 ~~upon its own motion, order that the hearing before it shall be reported by a~~
11 ~~stenographer and the expense thereof shall be paid by the board out of the~~
12 ~~appropriation for the board. The board may contract for the report of such~~
13 ~~proceedings or designate the reporter of the board to report such proceedings. The~~
14 ~~board may supply copies of the transcript of the proceedings to any one requesting~~
15 ~~the same and may fix the fee for purchasing such copies.~~

16 **§1416. Ex parte consultations**

17 **Unless required for the disposition of ex parte matters authorized by law,**
18 **a presiding judge shall not communicate, directly or indirectly, in connection**
19 **with any issue of fact or law, with any party or his representative, or with any**
20 **officer, employee, or agent engaged in the performance of investigative,**
21 **prosecuting, or advocating functions, except upon notice and opportunity for**
22 **all parties to participate.**

23 **§1417. Disqualification and withdrawal of judge**

24 **A. In accordance with the rules governing district judges in the state, a**
25 **Tax Judge shall voluntarily recuse himself and withdraw from any proceeding**
26 **in which he cannot accord a fair and impartial hearing or consideration.**

27 **B.(1) Any party may request the disqualification of a judge by filing a**
28 **motion to disqualify the judge supported by an affidavit, promptly upon**
29 **learning of the basis for the disqualification, stating with particularity the**

1 grounds upon which it is claimed that a fair and impartial hearing cannot be
2 accorded.

3 (2) The issue shall be determined promptly by the chief judge, or by
4 another judge of the court if the motion affects the chief judge.

5 (3) Upon the entry of an order of disqualification affecting a judge, the
6 chief judge shall then conduct the hearing or assign another judge to conduct
7 the hearing. Upon the entry of an order of disqualification affecting the chief
8 judge, the other judges shall assign another judge. In the event of the
9 disqualification of every judge of the court, the Governor shall appoint a judge
10 ad hoc to preside in that proceeding. A judge ad hoc shall possess the
11 qualifications required of a judge of the Tax Court.

12 §1418. Reserved.

13 §1419. Expense Fund; fees and charges; collection and disposition

14 There is hereby established in the state treasury the "Tax Court Expense
15 Fund", hereinafter referred to as the "expense fund". After credit to the Bond
16 Security and Redemption Fund as provided in Article VII, Section 9(B) of the
17 Constitution of Louisiana, all fees, court costs, and other charges authorized by
18 law and paid to the Tax Court shall be deposited in and credited to the expense
19 fund. Monies on deposit in the expense fund may be expended only pursuant
20 to appropriation by the Legislature for the expenses of the Tax Court. Monies
21 on deposit in the expense fund shall be invested in the same manner as the state
22 general fund. Interest on investment of monies in the expense fund shall be
23 credited to the state general fund. All unexpended and unencumbered monies
24 in the fund at the close of the fiscal year shall be remitted to the state general
25 fund.

26 §1420. Reserved

27 §1421. Judgments

28 A. Each judge shall, in each case heard by him, or in each case submitted
29 to him upon stipulation of agreement and fact, sign a written judgment, make

1 a minute entry, and issue signed written reasons for the judgment which include
2 a concise statement of the facts found by the court and the conclusions of law
3 reached by the court.

4 B. Each judgment of the court and written reasons for the judgment
5 shall be published in the manner which the court deems most effective and
6 practicable.

7 C. A judgment shall be binding upon all parties, and becomes final if not
8 timely appealed to the proper Court of Appeal in accordance with the provision
9 of R.S. 47:1423. When the decision or judgment of the court which has become
10 final contains a finding that the taxpayer is liable for the payment of an amount
11 of tax, interest and penalty, such amount shall be paid by the taxpayer upon
12 notice and demand from the collector, and shall be collectible by distraint and
13 sale, as provided in R.S. 47:1570 through 47:1573. When the decision or
14 judgment of the court which has become final contains a finding that the
15 taxpayer is entitled to receive a refund or credit of an overpayment, the
16 collector shall promptly enter the credit or make the refund, as the case may be.

17 §1422. Rehearing

18 A. A judgment shall be subject to rehearing, reopening, or
19 reconsideration by the court, within ten days from the date of its entry, based
20 on any ground provided for civil actions in the provisions of the Code of Civil
21 Procedure applicable to non-jury proceedings.

22 B. The petition of a party for rehearing, reconsideration, or review, and
23 the order of the court granting it, shall set forth the grounds which justify the
24 action. Nothing in this Section shall prevent rehearing, reopening, or
25 reconsideration of a matter by the court in accordance with other statutory
26 provisions applicable to the court, or, at any time, on the ground of fraud
27 practiced by the prevailing party or of procurement of the order by perjured
28 testimony or fictitious evidence. On reconsideration, reopening, or rehearing,
29 the matter may be heard by the court, and the hearing shall be confined to

1 those grounds upon which the reconsideration, reopening, or rehearing was
2 ordered. If an application for rehearing is timely filed, the period within which
3 judicial review under the applicable statute must be sought shall run from the
4 mailing of notice of the final disposition of the application.

5 C. For the convenience of the parties and the witnesses and in the
6 interest of justice, the court upon petition for rehearing, reconsideration, or
7 review of the venue for any review of the judgment, after contradictory hearing,
8 may establish a different venue, if venue was determined pursuant to R.S.
9 47:1410(A)(3) or (4).

10 §1423. Judicial review.

11 A.(1) A final judgment or order of the court shall be subject to judicial
12 review by the Court of Appeal for the parish of proper venue pursuant to R.S.
13 47:1410(B). Interlocutory, nonfinal, and nonappealable judgments and orders
14 shall be reviewable in the same manner as provided by the Code of Civil
15 Procedure for civil matters.

16 (2) The Court of Appeal for the parish of proper venue pursuant to R.S.
17 47:1410(B) may exercise supervisory jurisdiction over a case pending before the
18 court in the same manner as provided for in a civil matter within its circuit. The
19 Supreme Court may exercise supervisory jurisdiction over the Tax Court in all
20 of its cases, in the same manner as provided for in civil matters.

21 B. Proceedings for review may be instituted by filing an appeal with the
22 proper Court of Appeal for the parish of the venue within thirty calendar days
23 from the date of mailing of the notice of the judgment. If a rehearing is
24 requested with the Tax Court, the appeal shall be made within thirty calendar
25 days after mailing notice of the denial of the rehearing request or the notice of
26 the judgment thereon.

27 C. A party seeking judicial review of the judgment of the court shall
28 before the filing of his appeal, either at open hearing or by motion, notify the
29 court of his intention to seek judicial review.

1 **D. When the court has found any tax to be due, a taxpayer must, when**
2 **giving the notice of intention to file for judicial review, post bond, with a surety**
3 **approved by the Tax Court conditioned upon the payment of the tax as finally**
4 **determined, together with any interest, additional amounts or additions to the**
5 **tax provided for by law, payable to the collector, in an amount not to exceed one**
6 **and one-half times the said tax, interest, and penalty found to be due in said**
7 **decision or judgment of the court, and the posting of such bond shall be a**
8 **condition precedent to the filing of any appeal in the Court of Appeal.**
9 **Thereafter, and within the thirty calendar days from the date of the rendering**
10 **and signing of such judgment of the court, the taxpayer may file his appeal with**
11 **the proper Court of Appeal for the parish of venue, setting forth specifically any**
12 **errors which may have been committed by the court in reaching its decision or**
13 **judgment.**

14 **E. When an appeal is lodged seeking judicial review pursuant to this**
15 **section, the clerk of the Court of Appeal shall mail notice to the clerk of the Tax**
16 **Court and to each party or counsel of record. The order shall command the**
17 **clerk of the Tax Court to send up, within thirty days from the date thereof, the**
18 **original transcript of the record, together with all exhibits and evidence**
19 **attached.**

20 **F. The review conducted by the appellate court shall be confined to the**
21 **record.**

22 **G. The appellate court may reverse or modify the judgment of the Tax**
23 **Court if the action of the court is clearly erroneous. The appellate court may**
24 **also remand the matter for further proceedings, as justice may require.**

25 **H. If a judgment of the Tax Court is timely appealed to the proper Court**
26 **of Appeal, the court's judgment, or the judgment of the appellate court, shall**
27 **become final in the same manner as provided for in civil matters.**

28 **§1424. Notification of right to file appeal**

29 **In cases within the jurisdiction of the court, at the same time that notice**

1 of the assessment, determination, or order of the secretary, or other collector,
 2 is given to the taxpayer, the secretary or other collector, as the case may be,
 3 shall in writing also notify the taxpayer of his right to appeal to the court.

4 §1425. Annual report

5 The chief judge of the Tax Court shall annually submit a written report
 6 to the governor, the legislature, and the supreme court. The report shall
 7 contain information and statistics for the previous fiscal year concerning the
 8 operation of the court and its small claims division. The report may also
 9 contain recommendations by the chief judge regarding the clarification or
 10 revision of law, rules, and regulations relating to taxation, or the practice and
 11 procedure before the court or its small claims division.

12 ~~PART II. APPEALS FOR REDETERMINATION OF~~

13 ~~ASSESSMENT OR FOR DETERMINATION OF OVERPAYMENT~~

14 ~~§1431. Taxpayer's petition~~

15 ~~Whenever a taxpayer is aggrieved by an assessment made by the collector,~~
 16 ~~or by the collector's action or failure to act on a claim for refund or credit of an~~
 17 ~~overpayment, such taxpayer may appeal to the board for a redetermination of the~~
 18 ~~assessment or a determination of the alleged overpayment, by filing a petition with~~
 19 ~~the board within the respective periods set forth in R.S. 47:1565, 47:1566 and~~
 20 ~~47:1625.~~

21 ~~§1432. Notice, hearing, decision~~

22 ~~In each proceeding for the redetermination of an assessment or for the~~
 23 ~~determination of an overpayment notice and opportunity to be heard shall be given~~
 24 ~~to the taxpayer and the collector and a decision or judgment shall be made as quickly~~
 25 ~~as practicable.~~

26 ~~§1433. Publication of opinions and decisions~~

27 ~~The board shall provide for the publication of such of its reports, opinions~~
 28 ~~and decisions or judgments as are of public interest, in such form as it may deem best~~
 29 ~~adapted for public convenience and use, and such authorized publication shall be~~

1 competent evidence of the reports of the board therein contained in all courts of the
2 state, without any further proof or authentication thereof.

3 ~~§1434. Judicial review of decision of the board~~

4 After a decision or judgment of the board, the collector or the taxpayer may,
5 within thirty calendar days after such decision or judgment has been rendered and
6 signed, file a petition with the district court in accordance with the provisions
7 hereinafter set out, for review of the said decision or judgment of the board. The
8 party filing such petition shall before the filing of same, either at open hearing or by
9 motion, notify the board of his intention to file such petition for review. Provided
10 that when the board has found any tax to be due, a taxpayer must, when giving the
11 notice of intention to file a petition for review, post bond, with surety approved by
12 the board conditioned upon the payment of the tax as finally determined, together
13 with any interest, additional amounts or additions to the tax provided for by law,
14 payable to the collector, in an amount not to exceed one and one-half times the said
15 tax, interest, and penalty found to be due in said decision or judgment of the board,
16 and the posting of such bond shall be a condition precedent to the filing of any
17 petition for review in any district court.

18 Thereafter, and within the thirty calendar days from the date of the rendering
19 and signing of such decision or judgment of the board, the taxpayer may file his
20 petition for review with the proper district court, setting forth specifically any errors
21 which may have been committed by the board in reaching its decision or judgment.

22 When the district judge has ordered the review, a copy of the order and
23 petition shall be mailed to the secretary-clerk of the board, and the opposing party
24 or counsel representing him, and the order shall command the secretary-clerk of the
25 board to send up within twenty days from the date thereof the original transcript of
26 the record, together with all exhibits and evidence thereto attached; which record
27 shall be the basis for any action on review and the decision of the district court shall
28 be rendered upon the said record as made up before the board.

29 ~~§1435. Jurisdiction of district courts to review decisions of the board~~

1 ~~The district courts shall have exclusive jurisdiction to review the decisions~~
2 ~~or judgments of the board, and the judgment of any such court shall be subject to~~
3 ~~further appeal, suspensive only, in accordance with law. If a suspensive appeal is~~
4 ~~taken from a judgment of the district court no further bond need be posted and the~~
5 ~~bond originally posted remains in full force and effect to guarantee the payment of~~
6 ~~any tax, interest, and penalty until final decision of the court.~~

7 ~~Upon such review, such courts shall have the power to affirm or, if the~~
8 ~~decision or judgment of the board is not in accordance with law, to modify, or to~~
9 ~~reverse the decision or judgment of the board, with or without remanding the case~~
10 ~~for further proceedings as justice may require.~~

11 ~~§1436. Determination of which district court has jurisdiction~~

12 ~~A decision or judgment of the board may be reviewed:~~

13 ~~(1) In the case of an individual, by the district court for the district whereof~~
14 ~~he is a resident, or if not a resident of any district, then by the district court for the~~
15 ~~parish of East Baton Rouge.~~

16 ~~(2) In the case of a person other than an individual, except as provided in~~
17 ~~paragraphs (3), (4), and (5) of this Section by the district court for the parish of East~~
18 ~~Baton Rouge.~~

19 ~~(3) In the case of a corporation which has a principal office or agency in~~
20 ~~Louisiana, then by the district court for the district where such principal office or~~
21 ~~agency is located.~~

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

24 ~~(5) In the case of an agreement between the collector and taxpayer, then by~~
25 ~~the district court as stipulated in the agreement.~~

26 ~~§1437. Effect of final judgment~~

27 ~~When the decision or judgment of the board which has become final contains~~
28 ~~a finding that the taxpayer is liable for the payment of an amount of tax, interest and~~
29 ~~penalty, such amount shall be paid by the taxpayer upon notice and demand from the~~

1 collector, and shall be collectible by distraint and sale, as provided in R.S. 47:1570
2 through 47:1573.

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

6 §1438. ~~Date judgment becomes final~~

7 For the purposes of this Title, the date on which a decision or judgment of the
8 board becomes final shall be determined as provided herein. ~~The decision or~~
9 ~~judgment of the board shall become final:~~

10 (1) ~~Upon the expiration of the time allowed for filing a petition for review,~~
11 ~~if no such petition has been duly filed within such time; or~~

12 (2) ~~Upon the expiration of the time allowed for filing a petition for appeal,~~
13 ~~if the decision or judgment of the board has been affirmed or the petition for review~~
14 ~~dismissed by the district court, and no appeal has been taken; or~~

15 (3) ~~Upon dismissal of the appeal, if the decision or judgment of the board has~~
16 ~~been affirmed or the petition for review dismissed by the district court; or~~

17 (4) ~~Upon the expiration of thirty days from the date of issuance of the~~
18 ~~mandate of the supreme court, if such court directs that the decision or judgment of~~
19 ~~the board be affirmed or the petition for review dismissed:~~

20 If the Supreme Court directs that the decision or judgment of the board be
21 modified or reversed, the decision or judgment of the board rendered in accordance
22 with the mandate of the supreme court shall become final upon the expiration of
23 thirty days from the time it was rendered, unless within such thirty days either the
24 collector or the taxpayer has instituted proceedings to have such decision or
25 judgment corrected to accord with the mandate, in which event the decision or
26 judgment of the board shall become final when so corrected.

27 If the decision or judgment of the board is modified or reversed by the district
28 court, and if the time allowed for taking an appeal has expired and no such appeal
29 has been taken; or if the appeal has been dismissed; or if the decision of the court has

1 ~~been affirmed by the supreme court, then the decision or judgment of the board~~
2 ~~rendered in accordance with the mandate of the district court shall become final on~~
3 ~~the expiration of thirty days from the time such decision or judgment of the board~~
4 ~~was rendered, unless within such thirty days either the collector or the taxpayer has~~
5 ~~instituted proceedings to have such decision corrected so that it will accord with the~~
6 ~~mandate, in which event the decision or judgment of the board shall become final~~
7 ~~when so corrected.~~

8 ~~If the Supreme Court orders a rehearing, or if the case is remanded by the~~
9 ~~district court to the board for rehearing, and if the time allowed for taking an appeal~~
10 ~~has expired, and no such petition has been duly filed; or if the appeal has been~~
11 ~~dismissed; or if the decision of the court has been affirmed by the supreme court,~~
12 ~~then the decision or judgment of the board rendered upon such rehearing shall~~
13 ~~become final in the same manner as though no prior decision or judgment of the~~
14 ~~board has been rendered.~~

15 ~~As used in this section, the term "district court" means any district court of~~
16 ~~the State of Louisiana having jurisdiction to review the decision or judgment of the~~
17 ~~board; and the term "mandate" in case a mandate has been recalled prior to the~~
18 ~~expiration of thirty days from date of issuance thereof, means the final mandate.~~

19 **PART II. SMALL CLAIMS DIVISION**

20 **§1431. Tax Court small claims division established; jurisdiction;**

21 **There shall be a division of the Tax Court known as the small claims**
22 **division, which may be referred to in this part as the "division".**

23 **§1432. Judge**

24 **A. A Tax Court judge shall preside as judge of a case in the court's small**
25 **claims division. However, with consent of all parties a case may be heard by a**
26 **hearing officer who may be an employee of the Tax Court.**

27 **§1433. Venue**

28 **Venue of the small claims division shall be as provided for the Tax Court**
29 **in R.S. 47:1410.**

1 **§1434. Election to proceed in small claims division**

2 **A taxpayer may elect to proceed in the division instead of the Tax Court.**
3 **By filing his petition in the division, the taxpayer may not thereafter revoke the**
4 **election and shall not have any further right to appeal or bring suit. If the**
5 **taxpayer files a petition with the Tax Court, he may not thereafter proceed in**
6 **the division without consent of the other parties.**

7 **§1435. Instituting proceedings in small claims division**

8 **A taxpayer shall commence a proceeding in the division by filing a**
9 **petition with the clerk of the Tax Court, in the form prescribed by the rules of**
10 **the court, which shall state the nature of the taxpayer's claim, including the**
11 **basis of jurisdiction and venue. The petition shall be filed within the applicable**
12 **period set forth in law for a case in the Tax Court.**

13 **§1436. Procedure in small claims division**

14 **Upon the filing of a petition, the clerk shall notify each concerned taxing**
15 **authority. Each such authority shall be deemed a party to the proceeding and**
16 **at the hearing on the petition may appear in opposition thereto. Once a petition**
17 **is filed, the division shall have exclusive jurisdiction of the case.**

18 **§1437. Dismissal of proceeding**

19 **At any time prior to entry of a decision, a taxpayer may request a**
20 **dismissal of the proceeding by notifying the clerk in writing, but the dismissal**
21 **shall be with prejudice, shall not have the effect of revoking the election**
22 **specified in R.S. 47:1434.**

23 **§1438. Hearing; evidence; appearance**

24 **All testimony shall be given under oath; however, the hearing shall be**
25 **informal and the judge may hear testimony and receive evidence as he deems**
26 **necessary for a just and equitable determination of the matter. A party may**
27 **appear on his own behalf or may be represented or accompanied as permitted**
28 **in the Tax Court. Unless otherwise ordered by the judge, a party may appear**
29 **before the Small Claims Division by telephone, video conference, or similar**

1 communication equipment, including for the administration of oaths in such
2 proceedings.

3 §1439. Decision; rendering; effect

4 A. A decision shall be rendered within thirty days after the hearing is
5 held and shall be based on law and the Tax Court's interpretation of law. The
6 decision shall be a minute entry in the docket of the division, which shall include
7 an explanation of the basis of the decision. The decision shall be binding upon
8 all parties and may include orders to proper officers of taxing authorities to
9 correct, modify, or cancel an assessment, pay or allow a refund, or take such
10 other action as may be necessary to effectuate the decision.

11 B. The decision shall not be considered a precedent nor be given any
12 force or effect in any other matter, hearing, or proceeding.

13 PART V. III. CLAIMS AGAINST THE STATE

14 §1481. Authority of ~~board~~ Tax Court to receive and consider claims against the
15 state.

16 Any person who has a claim against the State of Louisiana for money
17 erroneously paid into the State Treasury, or for any other claim, may present such
18 claim to the ~~board of tax appeals~~ Tax Court, in such form and together with such
19 proofs as the ~~board~~ Tax Court of tax appeals may require by its rules and
20 regulations. The ~~board~~ Tax Court shall duly examine into the justice, merits and
21 correctness of each such claim presented to it, and shall officially pass thereon.

22 §1482. Authority of the ~~board~~ Tax Court to conduct investigations

23 The ~~board~~ Tax Court is authorized to make such examination and
24 investigation as it may deem necessary to determine the correctness of any claim
25 presented; and for that purpose, the ~~board~~ Tax Court is authorized to employ any
26 expert accountant or clerical assistants that might be necessary. The ~~board~~ Tax
27 Court may appoint an agent to conduct any investigation, in Louisiana or elsewhere,
28 that may be found necessary in discovering the facts in connection with any claim.

29 The ~~board~~ Tax Court is authorized to require the claimant to present for the ~~board's~~

1 **Tax Court's** inspection all books, papers, documents, receipts, etc., that may have
2 a bearing upon the true facts in connection with any claim presented; and the burden
3 of proof shall always rest with the person presenting any claim against the state for
4 any purpose whatsoever. The ~~board~~ **Tax Court** is further authorized to call upon any
5 department or official of the state government or any institution thereof or any
6 citizen to make available to the ~~board~~ **Tax Court** any and all information,
7 documents, receipts and papers that will aid it in discovering the correctness and
8 justice of any demand or claim that might be presented to it against the State of
9 Louisiana.

10 * * *

11 §1483. Payment of approved claims

12 If the claim is approved and it should be an amount not exceeding one
13 thousand dollars, the ~~chairman~~ **presiding judge** of the ~~board of tax appeals~~ **Tax**
14 **Court** shall issue a warrant upon the State Treasurer, for the amount for which the
15 same is approved, stating in ~~said~~ **such** warrant the amount, purposes, and reasons for
16 which the same is drawn. If ~~said~~ **such** claim shall amount to more than one thousand
17 dollars, and is approved by ~~said~~ **such** ~~board of tax appeals~~ **the Tax Court**, the
18 presiding ~~chairman~~ **judge**, giving all the facts and circumstances in connection
19 therewith, shall report the same to the next session of the legislature for its
20 consideration. Provided that where such claim accrues to more than one person, as
21 for example, the heirs or legatees of another, and the claim is determined by the
22 ~~board~~ **Tax Court** to be properly due and owing, payment thereof to the party or
23 parties asserting the same before the ~~board~~ **Tax Court** shall not be denied because
24 of the failure or refusal of others to join in and assert such claim, but in such event
25 only the portion due such claimant or claimants shall be paid and then only if the
26 amount to be paid to each such claimant does not exceed one thousand dollars.

27 §1484. Satisfaction of claims

28 A. At each regular session of the legislature, an amount shall be appropriated
29 except as provided in Subsection B for the purpose of paying any and all claims that

1 might be approved in accordance with the provisions of this Part, and which may be
2 drawn against for the purpose of paying claims that might be duly approved by the
3 ~~Board of Tax Appeals~~ **Tax Court**.

4 B. With the consent of the parties involved, final rulings or judgments of the
5 ~~Board of Tax Appeals~~ **Tax Court** concerning the overpayment of severance taxes
6 may be additionally satisfied as provided in R.S. 47:1621.1.

7 §1485. Legislature not to consider claims not first presented to ~~board~~ **Tax Court**

8 The legislature shall not approve or consider any claim against the state for
9 money erroneously paid into the state treasury, unless the same shall have been first
10 presented to and considered by the ~~board of tax appeals~~ **Tax Court** and its report
11 thereon filed with said claim or demand against the state.

12 §1486. No appeal from action of ~~board~~ **Tax Court**

13 A. An action of the ~~board~~ **Tax Court** rejecting or refusing to approve any
14 claim under this Part may not be appealed to the courts. However, nothing contained
15 in this Part shall deny a claimant whose claim has been rejected by the ~~board~~ **Tax**
16 **Court** the right to ~~petition the legislature for permission to~~ sue on the claim in a
17 court of proper jurisdiction.

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

22 * * *

23 §1508.1. Unauthorized disclosure of information

24 * * *

25 B. Nothing contained in this Section shall be construed to prevent such
26 persons from disclosing a return of a taxpayer or the records of the secretary as
27 authorized by law in any **Tax Court or** judicial proceeding in which the state or any
28 political subdivision thereof is a party.

29 * * *

1 §1561. Alternative remedies for the collection of taxes

2 A. In addition to following any of the special remedies provided in the
3 various chapters of this Subtitle, the collector may, in his discretion, proceed to
4 enforce the collection of any taxes due under this Subtitle by means of any of the
5 following alternative remedies or procedures:

6 (1) Assessment and distraint, as provided in R.S. 47:1562 through 47:1573.

7 (2) Summary court proceeding, as provided in R.S. 47:1574.

8 (3) Ordinary suit under the provisions of the general laws regulating actions
9 for the enforcement of obligations.

10 B. The collector may choose which of these procedures he ~~will~~ shall pursue
11 in each case, and the counter-remedies and delays to which the taxpayer ~~will~~ shall
12 be entitled ~~will~~ shall be only those which are not inconsistent with the proceeding
13 initiated by the collector, provided that in every case the taxpayer shall be entitled
14 to proceed under R.S. 47:1576 except (a) after he has filed a petition with the ~~board~~
15 ~~of tax appeals~~ Tax Court for a redetermination of the assessment, or (b) when an
16 assessment for the tax in question has become final or (c) when a suit involving the
17 same tax obligation is pending against him; and provided further, that the fact that
18 the collector has initiated proceedings under the assessment and distraint procedure
19 ~~will~~ shall not preclude him from thereafter proceeding by summary or ordinary court
20 proceedings for the enforcement of the same tax obligation.

21 * * *

22 §1565. Notice of assessment and right to appeal

23 A. Having assessed the amount determined to be due, the secretary shall
24 send a notice by certified mail to the taxpayer against whom the assessment is
25 imposed at the address given in the last report filed by said taxpayer, or to any
26 address obtainable from any private entity which will provide such address free of
27 charge or from any federal, state, or local government entity, including but not
28 limited to the United States Postal Service or from United States Postal Service
29 certified software. If no report has been timely filed, the secretary shall send a notice

1 by certified mail to the taxpayer against whom the assessment is imposed at any
2 address obtainable from any private entity which will provide such address free of
3 charge or from any federal, state, or local government entity, including but not
4 limited to the United States Postal Service or from United States Postal Service
5 certified software. This notice shall inform the taxpayer of the assessment and that
6 he has sixty calendar days from the date of the notice to either pay the amount of the
7 assessment or to appeal to the ~~Board of Tax Appeals~~ **Tax Court** for a
8 redetermination of the assessment. All such appeals shall be made in accordance
9 with the provisions of Chapter 17, Subtitle II of this Title.

10 B. If the taxpayer has not filed an appeal with the ~~Board of Tax Appeals~~ **Tax**
11 **Court** within the sixty day period, the assessment shall be final and shall be
12 collectible by distraint and sale as hereinafter provided. If an appeal for a
13 redetermination of the assessment has been filed, the assessment shall not be
14 collectible by distraint and sale until such time as the assessment has been
15 redetermined or affirmed by the ~~Board of Tax Appeals~~ **Tax Court**, or the court
16 which last reviews the matter.

17 C.(1) No assessment made by the secretary shall be final if it is determined
18 that the assessment was based on an error of fact or of law. An "error of fact" for
19 this purpose means facts material to the assessment assumed by the secretary at the
20 time of the assessment to be true but which subsequently are determined by the
21 secretary to be false. "Error of law" for this purpose means that in making the
22 assessment the secretary applied the law contrary to the construction followed by the
23 secretary in making other assessments.

24 (2) The determination of an error of fact or of law under this Subsection shall
25 be solely that of the secretary, and no action against the secretary with respect to the
26 determination shall be brought in any court, nor shall any appeal relating thereto be
27 brought before the ~~board of tax appeals~~ **Tax Court**, and no court, **including the Tax**
28 **Court**, shall have jurisdiction of any such action nor the ~~board of tax appeals~~ of any
29 such appeal, it being the intent of this Subsection only to permit the secretary to

1 correct manifest errors of fact or in the application of the law made by the secretary
 2 in making the assessment; however, all reductions of assessments based on such
 3 errors, except estimated assessments made due to the failure of the taxpayer to file
 4 a proper tax return, must be approved and signed by the secretary, and the assistant
 5 secretary or the deputy assistant secretary of the office of legal affairs of the
 6 Department of Revenue, and shall then be approved by the ~~board of tax appeals~~ **Tax**
 7 **Court**, and signed by ~~the chairman~~ **a judge** thereof. Estimated assessments made due
 8 to the failure of the taxpayer to file a proper tax return may be corrected by the
 9 acceptance of the proper tax return and must be approved by the secretary or his
 10 designee.

11 (3) The remedies of a taxpayer aggrieved by any action of the secretary are
 12 by appeal to the ~~board of tax appeals~~ **Tax Court**, or by payment of the disputed tax
 13 under protest and suit to recover as provided in this Subtitle.

14 * * *

15 §1566. Assessment and notice when tax is in jeopardy

16 * * *

17 C. The taxpayer against whom the assessment lies can stay distraint of his
 18 property, or sale of his property already distrained, as the case may be, only by the
 19 immediate payment of the assessment or by posting with the collector a surety bond
 20 for twice the amount of such assessment, or of a lower amount acceptable to the
 21 collector, with such sureties as the collector deems necessary. The taxpayer shall
 22 have sixty calendar days from the date of payment, or the date of posting bond, to
 23 appeal to the ~~board of tax appeals~~ **Tax Court** in the manner set out in Chapter 17,
 24 Subtitle II of this Title for a redetermination of the assessment. During this period,
 25 the collector shall hold any payment made in an escrow account. If the taxpayer
 26 does not appeal, the collector shall immediately credit such payment to tax
 27 collections or proceed to collect from sureties, if any were given. In the event of an
 28 appeal, such payment or demand for payment from sureties given shall be held in
 29 abeyance pending the redetermination or affirmation of the assessment by the ~~board~~

1 ~~of tax appeals~~ **Tax Court**, or the court which last reviews the matter. Final payment,
2 or collection from sureties, will be for the amount of the affirmed or redetermined
3 assessment.

4 §1567. Assessment and claims in bankruptcy and receivership

5 Upon the adjudication of bankruptcy of any taxpayer in any bankruptcy
6 proceeding, or the appointment of a receiver for any taxpayer in a receivership
7 proceeding, before any court of this state or of the United States, the collector may
8 immediately make a determination from any available information or by estimate or
9 otherwise, of the amount of tax, penalty, and interest the taxpayer is liable to pay
10 under any ~~chapter~~ **Chapter** of this ~~title~~ **Title**, and immediately assess ~~said~~ **such**
11 amount, and by a writing to be retained as a part of his official records indicate that
12 such assessment has been made. Such assessment may be made whenever a tax
13 becomes due under the provisions of this ~~Sub-title~~ **Subtitle**, regardless of whether
14 it is then payable or not. Claims for such assessments, and additional interest and
15 ~~attorney's~~ **attorney fees** thereon, shall be presented for adjudication in accordance
16 with law, to the court before which the bankruptcy or receivership proceeding is
17 pending despite the pendency of delays before assessment provided in R.S. 47:1562
18 through 47:1565 , or the pendency of an appeal to the ~~board of tax appeals~~ **Tax**
19 **Court** or the courts for a redetermination. Provided that no petition for the
20 redetermination of an assessment shall be filed with the ~~board of tax appeals~~ **Tax**
21 **Court** after an adjudication of bankruptcy or the appointment of a receiver, unless
22 the petition is accompanied by a certified copy of an order of the court before which
23 the bankruptcy or receivership proceedings is pending, authorizing the trustee or
24 receiver to prosecute such appeal.

25 * * *

26 §1578. Cancellation of lien, privilege, and mortgage; compromises

27 * * *

28 (B) * * *

29 (2) ~~Subject to approval by the Board of Tax Appeals, the~~ **The** secretary may

1 authorize the release of any real property from the effect and operation of any lien,
 2 privilege, mortgage, or other encumbrance, recorded by virtue of this Subtitle,
 3 provided, that the secretary is satisfied that the remaining real property belonging
 4 to the tax debtor and upon which said lien, privilege, and mortgage bears, is valued
 5 at not less than the amount of the remaining tax obligation, including all penalties,
 6 interest and other costs incurred, and the amount of all prior liens upon such
 7 property. In determining the value of the remaining property, due consideration shall
 8 be given to prior ranking encumbrances, if any exist on said property.

9 (3) ~~Subject to the approval of the Board of Tax Appeals, the~~ **The** secretary
 10 may issue a certificate of release of any part of the property subject to any lien,
 11 privilege, mortgage, or other encumbrance recorded by virtue of this Subtitle, if there
 12 is paid over to the secretary in partial satisfaction of the liability an amount
 13 determined by the secretary, which shall not be less than the value, as determined by
 14 the secretary, of the interest of the state of Louisiana in the part to be released, or the
 15 secretary determines at any time that the interest of the state of Louisiana in the part
 16 to be released has no value. In determining the value of the interest of the state of
 17 Louisiana in the part to be released, the secretary shall give consideration to the
 18 value of the part and to all prior ranking liens or other encumbrances existing on the
 19 part to be released.

20 (4)(a) Notwithstanding any other provision of this Chapter, the secretary,
 21 with the approval of two assistant secretaries ~~and the Board of Tax Appeals~~, may
 22 compromise any judgments for taxes of five hundred thousand dollars or less
 23 exclusive of interest and penalty, including assessments for such amounts which are
 24 equivalent to judgments upon a determination that any of the following apply:

25 * * *

26 §1580. Suspension and interruption of prescription

27 A. The prescription running against any state tax, license, excise, interest,
 28 penalty, or other charge shall be suspended by any of the following:

29 * * *

1 (3) The filing of any pleading, either by the secretary or by a taxpayer, with
2 the ~~Board of Tax Appeals~~ **Tax Court**, or any state or federal court.

3 * * *

4 §1603. Waiver of penalty for delinquent filing or delinquent payment

5 A. If the failure to make any return at the time such return becomes due or
6 the filing of a return without remittance of the full amount due, is attributable, not
7 to the negligence of the taxpayer, but to other cause set forth in written form and
8 considered reasonable by the secretary of the Department of Revenue, the secretary
9 may remit or waive payment of the whole or any part of the specific penalty
10 provided for such failure; ~~but in any case when the penalty exceeds five thousand~~
11 ~~dollars, it can be waived by the secretary only after approval by the board of tax~~
12 ~~appeals.~~

13 * * *

14 §1621. Refunds of overpayments authorized

15 * * *

16 F. This Section shall not be construed to authorize any refund of tax overpaid
17 through a mistake of law arising from the misinterpretation by the secretary of the
18 provisions of any law or of the rules and regulations promulgated thereunder. In the
19 event a taxpayer believes that the secretary has misinterpreted the law or
20 promulgated rules and regulations contrary therewith, his remedy is by payment
21 under protest and suit to recover, or by appeal to the ~~board of tax appeals~~ **Tax Court**
22 in instances where such appeals lie.

23 * * *

24 §1621.1. Satisfaction of rulings or judgments of the ~~Board of Tax Appeals~~ **Tax**
25 **Court**

26 A. A final ruling or judgment of the ~~Board of Tax Appeals~~ **Tax Court**
27 concerning the overpayment of severance taxes, issued pursuant to Chapter 17 of
28 Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950 may be applied, with
29 the consent of the parties involved, as a credit against any state tax liability of the

1 taxpayer for whom the judgment or ruling was rendered. Such credit may be applied
2 to the income tax, corporate franchise tax, or any other state tax liability of the
3 taxpayer.

4 * * *

5 §1625. Appeals from the collector's disallowance of refund claim

6 A. If the collector fails to act on a properly filed claim for refund or credit
7 within one year from the date received by him or if the collector denies the claim in
8 whole or in part, the taxpayer claiming such refund or credit may appeal to the ~~board~~
9 ~~of tax appeals~~ **Tax Court, as provided by law,** for a hearing on the claim filed. No
10 appeal may be filed before the expiration of one year from the date of filing such
11 claim unless the collector renders a decision thereon within that time, nor after the
12 expiration of sixty days from the date of mailing by registered mail by the collector
13 to the taxpayer of a notice of the disallowance of the part of the claim to which such
14 appeal relates.

15 B. Any consideration, reconsideration, or action by the collector with respect
16 to such claim following the mailing of a notice by registered mail of disallowance
17 shall not operate to extend the period within which an appeal may be taken.

18 C. In answering any such appeal, the collector is authorized to assert a
19 demand for any tax and additions thereto that he may deem is due for the period
20 involved in the claim for refund or credit, and the ~~board of tax appeals~~ **Tax Court**
21 shall have jurisdiction to determine the correct amount of tax for the period in
22 controversy and to render judgment ordering the refunding or crediting or any
23 overpayment or the payment of any additional tax, interest, and penalty found to be
24 due.

25 §1626. ~~Board's finding~~ **Finding** of overpayment upon appeal from assessment

26 Whenever the ~~board of tax appeals~~ **Tax Court,** pursuant to a hearing of an
27 appeal from an assessment of the collector in accordance with R.S. 47:1564,
28 ~~47:1566, or 47:1567,~~ finds that there is no tax due and further finds that the taxpayer
29 has made a refundable overpayment of the tax for the period for which the collector

1 asserted the claim for additional tax, the ~~board~~ **Tax Court** shall have jurisdiction to
 2 determine the amount of such overpayment, and order that such amount be refunded
 3 or credited to the taxpayer; provided, that the ~~board~~ **Tax Court** shall order no such
 4 refund or credit unless, as part of its decision, it determines that the petition of appeal
 5 in which the refund or credit was requested was filed within the period set out in R.S.
 6 47:1623 or that a claim for the refund or credit had been filed with the collector
 7 within that period.

8 §1627. Limitation on right of refund ~~when petition is filed with board of tax appeals~~

9 Whenever a taxpayer has timely filed a petition with the ~~board of tax appeals~~
 10 **Tax Court** pursuant to the provisions of R.S. 47:1565, ~~47:1566~~, and ~~47:1567~~ no
 11 credit or refund, in respect of the tax for the taxable period involved in the
 12 proceedings before the ~~board~~ **Tax Court** shall be allowed or made except:

13 (1) As to overpayment determined by a decision of the ~~board~~ **Tax Court**
 14 which has become final; ~~and~~ .

15 (2) As to any amount collected in excess of an amount computed in
 16 accordance with the decision of the ~~board~~ **Tax Court** which has become final.

17 * * *

18 §1688. Suspension of dealer's permit

19 Whenever the ~~collector of revenue~~ **secretary** determines that a dealer holding
 20 a permit under R.S. 47:1683 has violated any of the provisions of this Part, he shall
 21 suspend the permit of such dealer for a period of not less than six months nor more
 22 than one year; provided that any dealer aggrieved by such action on the part of the
 23 collector may appeal suspensively to the ~~board of tax appeals~~ **Tax Court**.

24 §1689. Forfeiture of refunds

25 Any person who uses gasoline colored in accordance with R.S. 47:1684 in
 26 any vehicle or engine other than any commercial fishing boat, any vehicle used by
 27 a licensed commercial fisherman in the administration of business associated with
 28 commercial fishing, any boat used to transport children to or from public or
 29 parochial schools, any farm tractor or any farm machinery used in the actual tilling

1 of the soil and production of crops, or any stationary motor used for agricultural
 2 purposes, or has in his possession refund gasoline which has not been colored, shall
 3 be subject to the following civil penalty: any claims for refund of gasoline taxes by
 4 such person pending with the secretary of the Department of Revenue at the time
 5 such violation is discovered shall not be paid; and any claims for refund of such
 6 taxes with respect to gasoline consumed during a period of twelve months following
 7 discovery of the violation shall not be paid. Whenever the secretary determines that
 8 this penalty is applicable, any person aggrieved by such finding shall have a right to
 9 appeal to the ~~board of tax appeals~~ **Tax Court**.

10 Section 5. R.S. 49:967(A) is hereby amended and reenacted to read as follows:

11 §967. Exemptions from provisions of Chapter

12 A. Chapter 13 of Title 49 of the Louisiana Revised Statutes of 1950 shall not
 13 be applicable to the ~~Board of Tax Appeals~~ **Tax Court**, the Department of Revenue,
 14 with the exception of the Louisiana Tax Commission that shall continue to be
 15 governed by this Chapter in its entirety, unless otherwise specifically provided by
 16 law, and the administrator of the Louisiana Employment Security Law; however, the
 17 provisions of R.S. 49:951(2), (4), (5), (6), and (7), 952, 953, 954, 954.1, 968, 969, and
 18 970 shall be applicable to such ~~board,~~ **court**, department, and administrator.

19 * * *

20 Section 6. R.S. 51:1310(C) is hereby amended and enacted to read as follows:

21 § 1310. Appeals

22 * * *

23 C. If the commission rejects the refund, the secretary shall send a copy of the
 24 commission's decision and copies of the international traveler's appeal documents to
 25 the ~~Louisiana Board of Tax Appeals~~ **Tax Court** and shall notify the international
 26 traveler of the action taken. Receipt of the documents by the ~~board~~ **Tax Court** shall
 27 be deemed an appeal for a determination of an overpayment and the provisions of
 28 Chapter 17 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950 shall
 29 apply, provided that the facts stated in the international traveler's appeal documents

1 shall be accepted as constituting a prima facie case and the presence of the
2 international traveler shall not be necessary for disposition of the case; and further
3 provided that no interest shall be awarded on any refund granted.

4 * * *

5 Section 7. All proceedings pending before the Board of Tax Appeals on December
6 31, 2013, shall remain with the Tax Court, as its successor. All such proceedings initiated
7 by a taxpayer that are within the jurisdiction of the small claims division shall be assigned
8 to the division at the election of the taxpayer. These proceedings shall be subject to the
9 applicable provisions of the Chapter 17 of Subtitle II of Title 47 of the Louisiana Revised
10 Statutes of 1950, as amended and reenacted.

11 Section 8. (A) The creation of the Tax Court and the small claims division of the Tax
12 Court shall not affect any proceeding, prosecution, action, suit, or appeal commenced before
13 January 1, 2014, in any court of record.

14 (B) However, any proceeding pending before a district court on December 31, 2013,
15 that is within the jurisdiction of the Tax Court may be transferred to the Tax Court upon joint
16 motion of all parties. All such proceedings initiated by a taxpayer that is within the
17 jurisdiction of the small claims division shall be assigned to the division at the election of
18 the taxpayer. Once transferred and assigned, the proceedings shall be subject to the
19 applicable provisions of Chapter 17 of Subtitle II of Title 47 of the Louisiana Revised
20 Statutes of 1950, as amended and reenacted.

21 Section 9. (A) The judges provided for under this Act may be appointed at any time
22 following their nomination, as provided for in this Act, and each judge so appointed may
23 take any action that is necessary to enable him properly to exercise, after January 1, 2014,
24 the duties, functions, and powers of the Tax Court.

25 (B) The Chief Judge appointed hereunder shall serve as an ex-officio, non-voting
26 member of the Board of Tax Appeals from the date of his appointment until December 31,
27 2013.

28 Section 10. (A) All books, papers, records, moneys and other property, heretofore
29 used or possessed by the board as heretofore existing, shall be retained by the Tax Court, as

1 it is re-named and continued herein. (B) In order to better effectuate the transfer of the
2 functions of the board of Tax Appeals to the Tax Court, the Governor may appoint the
3 existing members of the Board of Tax Appeals to serve until their successors are named. (C)
4 The Tax Court, or the board, is authorized to make such expenditures (including
5 expenditures for personal services and for law books, books of reference and periodicals),
6 as may be necessary to efficiently execute the functions vested in the board, or the Tax
7 Court. All expenditures of the Tax Court shall be allowed and paid, out of any moneys
8 appropriated for the purposes of the Tax Court, or the board.

9 Section 11. This Act shall become effective upon signature by the governor or, if not
10 signed by the governor, upon expiration of the time for bills to become law without signature
11 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
12 vetoed by the governor and subsequently approved by the legislature, this Act shall become
13 effective on the day following such approval.

14

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Riley Boudreaux.

DIGEST

Proposed law creates the Tax Court as a successor to the Board of Tax Appeals [BTA], and expands the jurisdiction of the Tax Court to local tax matters.

Proposed law requires all proceedings pending before the BTA on December 31, 2013 to remain with the Tax Court. However, the creation of the Tax Court cannot affect any proceeding, prosecution, action, suit, or appeal commenced before January 1, 2014, in any court of record, but any proceeding pending before a district court on December 31, 2013, that is within the jurisdiction of the Tax Court may be transferred to the Tax Court upon joint motion of all parties.

The Chief Judge serves as an ex-officio, non-voting member of the BTA until December 31, 2013.

Proposed law grants jurisdiction to the Tax Court to hear and determine:

1. Questions of law or fact arising under the tax laws of the state.
2. Questions of law or fact arising under a local sales and use tax, occupational license tax, hotel or motel occupancy tax, or automobile rental tax
3. Questions of law or fact arising from any state or local fee administered or collected by the Department of Revenue, except:
 - (a) Alcoholic beverage and tobacco permit fees.
 - (b) Charitable gaming fees.
4. Questions of law or fact arising from any tax on the sale, lease, rental, or use of a vehicle, any vehicle registration license fee or tax, or any vehicle certificate of title fee.
5. Any matter over which the Tax Court has jurisdiction transferred to the Tax Court by a district court or from the Tax Court's small claims division.
6. An action by a taxpayer or collector seeking a judgment declaring that a rule of a Collector applicable to a tax or fee within the jurisdiction of the court is contrary to or inconsistent with law.

Proposed law excludes from the jurisdiction of the Tax Court:

1. The determination of any constitutional issue; however, with the consent of the parties or when ordered by a district court, the court may develop a record on the issue, certify the question to the district court, and make a recommendation. In addition, any party may seek a declaratory judgment in district court on any constitutional issue. If the constitutional issue is raised in the small claims division, on motion of any party or the court, the matter must be removed to the Tax Court and the issue considered as provided above.
2. Ad valorem and other property taxes.
3. Insurance premium taxes.
4. Gaming taxes.

5. The collection or enforcement of any final, nonappealable assessment or judgment.
6. Any matter brought by a taxpayer where the taxpayer has not exhausted all other administrative remedies available, unless the taxpayer has paid under protest or has provided bond or other security.
7. Any criminal matter.
8. Any claim for damages or other action in tort.
9. Any matter involving the issuance or validity of a bond, or other financing, by the state or a political subdivision.

Proposed law requires each judge to issue written reasons for his judgment which must include a concise statement of the facts found by the court and the conclusions of law reached by the court.

Present law allows public accountants to represent parties before the BTA.

Proposed law does not allow it.

Proposed law establishes a "small claims division" which has concurrent jurisdiction when the amount in dispute, exclusive of penalties, interest, fees, and costs, is less than \$5,000.

Authorizes a case in the division to be heard by a hearing officer who may be an employee of the Court if all parties consent. A taxpayer who elects to proceed in the division instead of the Tax Court may not thereafter revoke the election and does not have any further right to appeal or bring suit. Hearings in the small claims division must be informal and the judge may hear testimony and receive evidence as he deems necessary for a just and equitable determination of the matter. A party may appear on his own behalf and, unless otherwise ordered by the judge, appear before the division by telephone, video conference, or similar communication equipment. A decision is a minute entry in the docket of the division and must include an explanation of the basis of the decision. The decision is not be considered a precedent nor be given any force or effect in any other matter, hearing, or proceeding.

Proposed law specifies venue in East Baton Rouge Parish [EBR] for the state, and for locals where the tax is levied, and appeal is to the Court of Appeal of those parishes

For proceedings brought against the state and one or more local taxing authorities, either in EBR or in any parish where the tax is levied, and proceedings against one or more local taxing authorities located in more than one parish, in any parish where the tax being litigated is levied; both to be determined by the presiding judge with a view to securing reasonable opportunity to the parties and their witnesses to appear with as little inconvenience and expense as is practicable. Appeal is based upon court determination of the convenience of the parties and witnesses and the interest of justice. However, all parties, by joint motion filed with the court prior to hearing, may designate the Court of Appeal that will be the venue of any judicial review.

Authorizes the court to hold the hearing in a matter at any location in the state if all parties consent the judge determines. In addition, with consent of the parties, the hearing can be by telephone, video conference, or similar communication equipment.

Proposed law provides that the Tax Court consists of three Tax Judges appointed by the Governor after nomination by the Legislature. Each judge must have been admitted to the practice of law in the state for at least 5 years prior to his appointment, and meet either of the following criteria:

1. Be recognized as a Board Certified Tax Specialist by the Louisiana Board of Legal

Specialization of the Louisiana State Bar Association.

2. Possess a Masters of Law (LLM).
3. Possess 7 years tax experience.

The Governor designates the chief judge for such term as he directs.

At the time of initial appointment, at least one judge appointed "should" be a resident of a parish in a different court of appeal circuit of the state from the remaining judges.

The judges are full-time unclassified employees of the court and must devote all of their time to their duties under the proposed law. They may not engage in the practice of law or hold any other public office or employment. They receive the same compensation and benefits as district court judges and are subject to the same mandatory retirement age as district court judges.

The first judge appointed serves until January 1, 2018; the second until January 1, 2019; and the third until January 1, 2017. Their successors are thereafter appointed for a term of 6 years.

Proposed law provides that the principal office and domicile of the Court is in East Baton Rouge Parish where the state must provide the court with adequate offices and a courtroom. However, the court may hold sessions at any place within the state. Upon request of a judge, a Court of Appeal is required to provide room in their courthouse for the hearings of the Court.

Proposed law requires all Tax Court fees, court costs, and other charges to be deposited in the "Tax Court Expense Fund", in the state treasury, to be appropriated and expended only for the expenses of the Tax Court. Interest on investment of money in the fund and all unencumbered and unexpended money in the fund at the close of the fiscal year is remitted to the state general fund.

Proposed law makes other changes to present law concerning the BTA and state and local tax matters, including:

1. Repeals the provision authorizing a taxpayer to require mandatory arbitration of local tax claims.
2. Deletes the requirement in present law that the BTA approve many actions of the DOR reducing penalties and canceling liens.
3. Removes the requirement that a taxpayer whose "claim against the state" has been rejected must petition the legislature for the right to sue on the claim.
4. Reduces from 90 to 60 days the time to appeal a local collector's disallowance of a refund claim.
5. Specifically authorizes the Tax Court to grant a judgement (a) ordering the payment of additional tax in a refund claim by a taxpayer and (b) ordering the payment of a refund or a credit against tax in a claim for taxes by a local collector provided that the claim for refund has not prescribed.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 26:354(I), 26:492(A), R.S. 36:458(F), R.S. 39:51.1(A)(1)(b), R.S. 47:15(14), 32(C), 114(F)(3), 295(C), 303(B)(5)(d), 303.1(G), 305.14(C), 305.18(C), 305.20(E), 305.53(2), 337.2(B)(1), (C)(4)(b)(iii), and (D), 337.27, 337.51, 337.54, 337.56, 337.63,

337.67, 337.77(F), 337.81, 647(B), Chapter 17 of Subtitle II of Title 47 to be comprised of R.S. 47:1401-1486, 1508.1(B), 1561, 1565, 1566(C), 1567, 1578 (B), 1580(A)(3), 1603(A), 1621(F), 1621.1(A), 1625, 1626, 1627, 1688, and 1689, and R.S. 49:967(A), R.S. 51:1310(C); adds R.S. 36:53(J) and R.S. 36:812, R.S. 47:337.2(A)(1)(c) and 337.81-A, and R.S. 49:992(D)(10); Repeals R.S. 36:4(B)(1)(p), R.S. 47:337.51.1)