

House Bill 538

By: Representatives Jones of the 25th and Scoggins of the 14th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 2 of Title 48 of the Official Code of Georgia Annotated,
2 relating to state administrative organization of revenue and taxation, so as to require that all
3 questions of law decided by a court or the Georgia Tax Tribunal on matters arising from the
4 state board of equalization be decided without deference to the rules, determinations, or
5 interpretations of the Department of Revenue; to amend Article 2 of Chapter 2 of Title 48 of
6 the Official Code of Georgia Annotated, relating to administration of revenue and taxation,
7 so as to require that all questions of law decided by a court or the Georgia Tax Tribunal on
8 matters arising from refunds and appeals of state administration of Title 48 be decided
9 without deference to the rules, determinations, or interpretations of the Department of
10 Revenue; to amend Chapter 13A of Title 50 of the Official Code of Georgia Annotated,
11 relating to tax tribunals, so as to require that all questions of law decided by the Georgia Tax
12 Tribunal be decided without deference to the rules, determinations, or interpretations of the
13 Department of Revenue; to provide for related matters; to provide an effective date; to
14 provide for applicability; to repeal conflicting laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 style="text-align:center">**SECTION 1.**

17 Article 1 of Chapter 2 of Title 48 of the Official Code of Georgia Annotated, relating to state
18 administrative organization of revenue and taxation, is amended by revising subsection (c)
19 of Code Section 48-2-18, relating to the State Board of Equalization and duties, as follows:
20 "(c) As chairperson and chief administrative officer of the board, the commissioner shall
21 furnish to the board all necessary records and files and in this capacity may compel the
22 attendance of witnesses and the production of books and records or other documents as the
23 commissioner is empowered to do in the administration of the tax laws. After final
24 approval by the State Board of Equalization of the digest of proposed assessments made
25 by the commissioner and after any adjustments by the board as authorized by this Code
26 section are made, the commissioner shall notify within 30 days each taxpayer in writing

27 of the proposed assessment of its property. At the same time, the commissioner shall notify
 28 in writing the board of tax assessors of such county, as outlined in Code Section 48-5-511,
 29 of the total proposed assessment of the property located within the county of taxpayers who
 30 are required to return their property to the commissioner. If any such taxpayer notifies the
 31 commissioner and the board of tax assessors in any such county of its intent to dispute a
 32 portion of the proposed assessment within 20 days after receipt of the notice, the county
 33 board of tax assessors shall include in the county digest only the undisputed amount of the
 34 assessment, and the taxpayer may challenge the commissioner's proposed assessment in
 35 an appeal filed in the Superior Court of Fulton County or with the Georgia Tax Tribunal
 36 in accordance with Chapter 13A of Title 50 within 30 days of receipt of the notice. In any
 37 such appeal to the superior court, the taxpayer shall have the right of discovery as provided
 38 in Chapter 11 of Title 9, the 'Georgia Civil Practice Act.' In any such appeal to the Georgia
 39 Tax Tribunal, discovery shall be as provided in Chapter 13A of Title 50, the 'Georgia Tax
 40 Tribunal Act of 2012.' All questions of law decided by a court or the Georgia Tax Tribunal
 41 pursuant to this subsection, including interpretations of constitutional, statutory, and
 42 regulatory provisions, shall be made without deference to any rule, determination, or
 43 interpretation, whether written or unwritten, that may have been made on the matter by the
 44 department. Upon conclusion of the appeal, the taxpayer shall remit to the appropriate
 45 counties any additional taxes owed, with interest at the rate provided by law for judgments.
 46 Such interest shall accrue from the date the taxes would have been due absent the appeal
 47 to the date the additional taxes are remitted."

48 SECTION 2.

49 Article 2 of Chapter 2 of Title 48 of the Official Code of Georgia Annotated, relating to
 50 administration of revenue and taxation, is amended by adding a new paragraph to subsection
 51 (c) of Code Section 48-2-35, relating to refunds, to read as follows:

52 "(7) In an action for a refund pursuant to paragraph (4) of this subsection, all questions
 53 of law decided by a court or the Georgia Tax Tribunal, including interpretations of
 54 constitutional, statutory, and regulatory provisions, shall be made without deference to
 55 any rule, determination, or interpretation, whether written or unwritten, that may have
 56 been made on the matter by the department."

57 SECTION 3.

58 Said article is further amended by adding a new subsection to Code Section 48-2-59, relating
 59 to appeals, payment of taxes admittedly owed, bond, and costs, to read as follows:

60 "(e) In an action pursuant to subsection (a) of this Code section, all questions of law
 61 decided by a court or the Georgia Tax Tribunal, including interpretations of constitutional,

62 statutory, and regulatory provisions, shall be made without deference to any rule,
63 determination, or interpretation, whether written or unwritten, that may have been made
64 on the matter by the department."

65 **SECTION 4.**

66 Chapter 13A of Title 50 of the Official Code of Georgia Annotated, relating to tax tribunals,
67 is amended by revising subsection (a) of Code Section 50-13A-14, relating to conduct of
68 trials, evidence, and recordings, as follows:

69 "(a) Trials in proceedings before the tribunal shall be de novo and without a jury. All
70 questions of law decided by the tribunal, including interpretations of constitutional,
71 statutory, and regulatory provisions, shall be made without deference to any rule,
72 determination, or interpretation, whether written or unwritten, that may have been made
73 on the matter by the Department of Revenue. Hearings shall be open to the public, but on
74 motion of any party, if such party shows good cause to protect certain information from
75 being disclosed to the public, the tribunal judge may issue a protective order or an order
76 closing part or all of a hearing to the public."

77 **SECTION 5.**

78 This Act shall become effective upon its approval by the Governor or upon its becoming law
79 without such approval, and shall be applicable to all proceedings commenced before the
80 Georgia Tax Tribunal or a superior court of this state on or after such date.

81 **SECTION 6.**

82 All laws and parts of laws in conflict with this Act are repealed.