

RÉSUMÉ DIGEST

ACT 365 (HB 583)

2019 Regular Session

Dwight

Existing law authorizes state courts to provide a legal remedy in cases where taxes are claimed to be an unlawful burden upon interstate commerce or when the collection of taxes violates any Act of Congress, the U.S. Constitution, or the Constitution of La.

New law retains existing law and extends this jurisdiction to the Board of Tax Appeals (the board) to handle such cases. New law also authorizes state courts and the board to provide a legal remedy for cases where taxes are claimed to be unconstitutional.

Existing law authorizes a court of competent jurisdiction to determine in an action for declaratory judgment the validity or applicability of a rule. New law retains existing law and additionally authorizes the board to make such determination.

Existing law provides for the jurisdiction of the board over matters of appeals, waiver of penalties, rules, petitions, claims against the state, and incidental demands. New law retains existing law and additionally extends the jurisdiction to include petitions for declaratory judgment related to the constitutionality of laws or ordinances, or the validity of a regulation concerning any matter relating to any state or local tax or fee not within the jurisdiction of the La. Tax Commission. New law extends jurisdiction of all matters related to state or local taxes or fees.

Existing law includes in the definition of "local collector", an individual, entity, or other collector responsible for collecting local taxes where an action is appealable to the board. New law amends the definition to include an individual, entity, or other collector responsible for collecting local fees and excludes tax matters within the jurisdiction of the La. Tax Commission.

Existing law authorizes an aggrieved taxpayer to appeal to the board for matters related to assessments or determinations of alleged overpayment. New law retains existing law and additionally authorizes an aggrieved party to petition the board over petitions for declaratory judgment related to the constitutionality of laws or ordinances, or the validity of a regulation.

New law states that no aggrieved party shall petition the board to declare a law unconstitutional on the basis of its failure to meet the constitutional requirements for the passage of laws by the legislature.

Existing law grants the courts of appeal the exclusive jurisdiction over the decisions and judgments made by the board. New law retains existing law and additionally grants this appellate jurisdiction to the supreme court.

Prior law provided that the Board of Tax Appeals had no jurisdiction to declare a statute or ordinance unconstitutional. The board was required to order the case transferred to the proper district court venue to determine the constitutionality. The court was authorized to remand the case back to the board. New law repeals prior law.

Existing law authorizes a collector to enforce the collection of taxes through an ordinary suit under provisions of law regulating actions for the enforcement of obligations.

New law retains existing law and provides that such suits shall be before the board or any court of competent jurisdiction.

Effective Jan. 1, 2020, if the proposed addition of Article V, §35 of the Constitution of La. contained in Act 446 of the 2019 R.S. is adopted at a statewide election and becomes effective.

(Amends R.S. 47:337.45(A)(3), 337.63(C), 337.97, 1407(3), 1418(4)(b), 1435(A), (C), and (D), 1561(A)(3), and 1576(D); Adds R.S. 47:1407(6) and 1431(D); Repeals R.S. 47:1432(B))