

1 Rouge, and West Feliciana shall compose the first circuit and the court of appeal for
2 that circuit shall be known as "Court of Appeal, First Circuit, State of Louisiana".

3 * * *

4 B. There shall be a Tax court, which shall be subdivided into districts as set
5 forth in Subsection A.

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

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

10 * * *

11 I. With respect to the twenty percent penalty provided in this Section, the
12 wholesale dealer shall have the right to send a signed application for a waiver of said
13 penalty, which application shall be provided in affidavit form setting forth the
14 reasons for the failure to pay the taxes within the specified time. Any such
15 application must be provided directly to the secretary, and after review by him it
16 shall be processed with his recommendations and provided to the ~~Board of Tax~~
17 ~~Appeals~~ Tax Court for approval or disapproval. The ~~Board of Tax Appeals~~ Tax
18 Court shall notify the secretary in writing of its decision with respect thereto.

19 * * *

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

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

1 explained to the satisfaction of the secretary, he may, with the approval of the ~~Board~~
2 ~~of Tax Appeals~~ Tax Court, remit or waive payment of the whole or any part of any
3 penalty due under the provisions of this Chapter.

4 * * *

5 Section 3. R.S. 36:458(F) is hereby amended and reenacted to read as follows:

6 §458. Offices; purposes and functions

7 * * *

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

16 * * *

17 Section 4. R.S. 39:51.1(A)(1)(b) is hereby amended and reenacted to read as follows:

18 §51.1. General Appropriation Bill and other appropriation bills; nongovernmental
19 entity funding request form; exemptions

20 A.(1)(a)

21 * * *

22 (b) The provisions of this Section shall not apply to appropriations for the
23 payment of money judgments against the state, including consent judgments,
24 stipulated judgments, judgments rendered by the ~~Board of Tax Appeals~~ Tax Court,
25 and other judgments against the state.

26 * * *

27 Section 5. R.S. 47:15(14), 114(F)(3), 295(C), 303(B)(5)(d), 303.1(G), 305.14(C),
28 305.18(C), 305.20(E), 305.53(B)(2), 1508.1(B), 1520(B), 1561, 1565(A) and (B), 1566(C),
29 1567, 1578(B)(2), (3) and (4)(a), 1580(A)(3), 1603(A), 1621(F), 1625 through 1627, 1688

1 and1689 are hereby amended and reenacted and R.S. 47:16.1 through 16.26 and 16.31
2 through 16.34 are hereby enacted to read as follows:

3 §15. Taxpayer's Bill of Rights

4 * * *

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

9 * * *

10 CHAPTER 3. TAX COURT

11 PART I. GENERAL PROVISIONS

12 §16.1. Purpose

13 The purpose of this Chapter is to provide for an impartial, economical, and
14 expeditious forum where parties may resolve disputes arising under certain state tax
15 laws as provided in this Chapter before a judge while fostering uniformity and
16 consistency in the interpretation and application of state and local tax law.

17 §16.2. Definitions

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

20 (1) "Clerk" means the clerk of the Court of Appeal Circuit or Tax Court.

21 (2) "Collector" means and includes:

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

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

1 (3) "Court" means the Tax Court established pursuant to the provisions of this
2 Chapter.

3 (4) "Judge" means a judge of a district court, Court of Appeal or Tax Court.

4 §16.3. Tax Court established

5 The Tax Court shall be established within the Louisiana Court of Appeals.

6 §16.4. Tax Court judges; election; term; vacancy; compensation; retirement age

7 A.(1) The Tax Court shall consist of not less than three judges. The judges
8 shall be elected. The first judges shall be elected at a special election as provided by
9 Article V, Section 22 of the Constitution of Louisiana. Each judge shall be a citizen
10 of the state, have been admitted to the practice of law in the state for at least five
11 years prior to his appointment, and meet either of the following criteria:

12 (a) Be possessed of substantial state or local tax law experience or expertise
13 within the jurisdiction of the Tax Court.

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

16 (2) Each judge shall be a full-time unclassified employee of the court and
17 devote all of his time to his duties under this Chapter. No judge may engage in the
18 practice of law or hold any other public office or employment.

19 (3) Each judge shall receive the same compensation and be subject to the
20 same mandatory retirement age as district court judges.

21 (4) Before the election of the judges, there shall be an initial Tax Court
22 composed of a judge representing the First Circuit Court of Appeal, a judge
23 representing the Second Circuit and Third Circuit Courts of Appeal and the Fourth
24 Circuit and Fifth Circuit Courts of Appeal.

25 §16.5. Chief Judge

26 The supreme court shall designate a judge of the Tax Court as chief judge.
27 The chief judge shall administer the affairs of the court, coordinate and make hearing
28 assignments, and appoint employees. The chief judge may delegate administrative
29 duties to the judges and employees of the court.

1 §16.6. Domicile; sessions; seal

2 A.(1) The principal office and domicile of the Tax Court shall be in the
3 Louisiana Court of Appeals First Circuit in East Baton Rouge Parish. The state shall
4 provide the court with adequate offices and courtrooms at the Court of Appeals.

5 (2) The court may hold sessions at the Courts of Appeals within the parish
6 of the taxpayer's domicile. The time and place of court sessions shall be designated
7 by the presiding judge, with a view of securing reasonable opportunity to the parties
8 to appear before the court with as little inconvenience and expense to the parties as
9 is practicable.

10 (3) The governing authority of each parish, except East Baton Rouge, upon
11 request of a judge shall provide room in the courthouse or a neutral site at the parish
12 seat when hearings are held within that parish.

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

16 §16.7. Staff; duties; bond

17 A. The staff of the Tax Court shall consist of a clerk and other staff who shall
18 be employed by the chief judge of the Tax Court. The duties of the clerk and staff
19 shall be such as are fixed by law and the chief judge.

20 B. The clerk shall serve as the clerk of the Tax Court and shall be an ex
21 officio notary public for the purposes of the court and the division. The clerk shall
22 give bond with good and solvent surety conditioned upon the faithful performance
23 of his duties in the sum of ten thousand dollars. The clerk shall be the custodian of
24 the docket and records of all proceedings in the Tax Court.

25 C.(1) In the discharge of the duties imposed by this Chapter, the clerk and
26 any duly authorized staff of the court may administer oaths and affirmations, take
27 depositions, certify official acts, and issue subpoenas to compel the attendance of
28 witnesses and the production of books, papers, and other documents deemed
29 necessary as evidence in connection with any proceeding under this Chapter. Any

1 subpoena issued pursuant to this Chapter may be served by any person duly
2 authorized by the clerk.

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

6 §16.8. Docket; records

7 The Tax Court shall each keep a docket of cases and proceedings before it.
8 A record and transcript of each proceeding shall be made and kept by the clerk of
9 court.

10 §16.9. Jurisdiction; exceptions

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

12 (1) A question of law or fact arising under the tax laws of the state
13 administered by the Department of Revenue, including penalties, interest, fees
14 imposed by the state not specifically excepted by this Chapter, and costs related
15 thereto, claims for refund of an overpayment or credit, and claims against the state
16 for taxes paid erroneously pursuant to R.S. 47:16.51 et seq.

17 (2) A question of law or fact arising from any state fee administered or
18 collected by the Department of Revenue.

19 (3) A question of law or fact arising from any state tax or fee administered
20 or collected by the Office of Charitable Gaming or pursuant to Title 27 of the
21 Louisiana Revised Statutes of 1950.

22 (4) A question of law or fact arising from any state fee administered or
23 collected by the Office of Alcohol and Tobacco Control.

24 (5) Any matter over which the Tax Court has jurisdiction transferred to the
25 court by a district court or the Louisiana State and Local Sales Tax Commission.

26 (6) An action by a taxpayer or collector seeking a judgment declaring that a
27 rule of the Department of Revenue applicable to a tax or fee within the jurisdiction
28 of the court is contrary to or inconsistent with law.

1 (7) The underpayment of taxes on natural resources levied pursuant to R.S.
2 47:631, et seq.

3 (8) Lien Cancellations.

4 (9) Penalty Waivers.

5 B. The jurisdiction of the Tax Court, shall not extend to:

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

8 (2) Insurance premium taxes.

9 (3) The collection or enforcement of any final nonappealable assessment or
10 judgment.

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

15 (5) Any criminal matter.

16 (6) Any claim for damages or other action in tort.

17 §16.10. Venue for proceedings; place of hearing

18 A. The venue for Tax Court proceedings shall be as follows:

19 (1) Proceedings brought against the state shall be the Court of Appeal Circuit
20 where the taxpayer is domiciled or at the Tax Court in East Baton Rouge Parish, at
21 the election of the taxpayer.

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

23 (1) Proceedings brought against the state shall be subject to review by the
24 Court of Appeal Circuit for the parish of venue.

25 (2) In determining venue under Paragraph (1) of this Subsection, the court
26 shall consider the convenience of the parties and witnesses and the interest of justice.

27 C. Notwithstanding any provision of law to the contrary, the court may hold
28 the hearing in a matter:

1 (1) At a location other than a parish of venue provided that all parties to the
2 proceeding consent or, if one party requests the location but the request is objected
3 to by any other party, the judge shall determine if the request should be granted in
4 the best interest of the court and the parties with a view to securing reasonable
5 opportunity to the parties and their witnesses to appear before the court with as little
6 inconvenience and expense as is practicable. Any such request, objection thereto, and
7 determination and reasons therefor shall be in writing and a part of the record of the
8 proceeding.

9 (2) With the consent of the parties, by telephone, video conference, or similar
10 communication equipment, including the administration of oaths in such
11 proceedings.

12 D. Objection to venue for judicial review set forth in the judgment shall be
13 in accordance with R.S. 47:16.21.

14 E. The provisions of R.S. 13:5104 with regard to venue for suits against the
15 state and other entities shall not apply to this Chapter.

16 §16.11. Filing suit; pleading jurisdiction and venue

17 A. All matters over which the Tax Court has jurisdiction shall be filed with
18 the Court of Appeal Circuit where the taxpayer is domiciled or at the Tax Court in
19 East Baton Rouge Parish, and filing fees paid to, the clerk of the Court of Appeal
20 Circuit or Tax Court, depending on where suit is instituted.

21 B. A suit shall be filed with the clerk of the Court of Appeal Circuit or Tax
22 Court in the manner provided for civil actions in district court within the applicable
23 time period set forth in law. The pleadings in the petition shall set forth the basis of
24 jurisdiction and venue.

25 C. To assist taxpayers in filing suit, the Tax Court shall develop forms and
26 information and make them available in any reasonable manner the court determines.

27 D.(1) Any paper in an action pursuant to this Chapter may, where available,
28 be filed with the Court of Appeal Circuit or Tax Court by facsimile or electronic
29 transmission. Filing shall be deemed complete at the time that the facsimile or

1 electronic transmission is received and a receipt of transmission has been transmitted
2 to the sender by the clerk. The facsimile or electronic document when filed has the
3 same force and effect as the original.

4 (2) Within five days, exclusive of legal holidays, after the clerk has received
5 the transmission, the party filing the document shall forward the original signed
6 document and the applicable filing fee, if any, to the clerk. If a party fails to comply
7 with the requirements of this Paragraph, the facsimile or electronic filing shall have
8 no force or effect. The court may provide, by rule, for other matters related to filings
9 by facsimile or and electronic transmissions.

10 §16.12. Procedure

11 A. Except as otherwise specifically provided in this Chapter, proceedings in
12 the Tax Court, including but not limited to discovery shall be governed first by the
13 administrative provisions of Title 47 of the Louisiana Revised Statutes of 1950, then
14 by the Code of Civil Procedure to the extent that such provisions do not conflict with
15 administrative provisions of Title 47 of the Louisiana Revised Statutes of 1950, and
16 thereafter by the administrative provisions of Title 47 of the Louisiana Revised
17 Statutes of 1950 when in conflict with the Code of Civil Procedure.

18 B. When two or more separate proceedings are pending in the court or the
19 division, the court or division may order consolidation of the proceedings after a
20 contradictory hearing and upon a finding that common issues of fact and law
21 predominate. Consolidation shall not be ordered if it would prevent a fair and
22 impartial hearing, give one party an undue advantage, or prejudice the rights of any
23 party.

24 C. Part XII of Chapter 32 of Title 13 of the Louisiana Revised Statutes of
25 1950, relative to expedited procedures for actions by or on behalf of the state, or by
26 or on behalf of any of its officers, for the determination or collection of any tax,
27 excise, license, interest, penalty, or attorney fees, claimed to be due under any statute
28 of this state, shall not apply to this Chapter.

1 D. The court's rules may regulate the requisites of service. All papers or
2 documents filed with the court which are required by law to be served upon opposing
3 party or which because of a prayer contained therein, are asked to be served upon the
4 opposing party or any counsel of record representing the taxpayer, or upon the
5 collector or his counsel of record, may be served by registered mail, return receipt
6 requested, and such service shall be valid for all purposes under this Chapter.

7 §16.13. Rules of evidence

8 Except as otherwise specifically provided by law, evidence in the Tax Court
9 shall be governed by the provisions of the Code of Evidence applicable to non-jury
10 trials.

11 §16.14. Persons authorized to appear before the court

12 A. A party in a proceeding before the court may appear and act for himself.
13 A legal entity may be represented by an authorized officer or member, upon
14 presentation of adequate identification to the court, in any proceeding to which the
15 jurisdiction of the court shall extend.

16 B. The following persons may represent any party in any matter to which the
17 jurisdiction of the court shall extend:

18 (1) An attorney at law, duly qualified and licensed under the laws of
19 Louisiana.

20 (2) An enrolled agent who is duly qualified and licensed by the United States
21 Department of the Treasury to represent taxpayers before all administrative levels
22 of the Internal Revenue Service and who gives evidence of his qualifications
23 satisfactory to the court by means of a written or oral examination given by the court.

24 (3) A certified public accountant who is duly qualified and licensed under the
25 laws of Louisiana and who gives evidence of his qualifications satisfactory to the
26 court by means of a written or oral examination given by the court.

27 (4) At the discretion of the court, an attorney at law, duly qualified and
28 licensed or registered under the laws of another state or the District of Columbia.

1 (5) At the discretion of the court, a certified public accountant who is duly
2 qualified and licensed under the laws of another state or the District of Columbia and
3 who gives evidence of his qualifications satisfactory to the court by means of a
4 written or oral examination given by the court.

5 §16.15. Power to administer oaths and issue subpoenas; contempt

6 A. For purposes of enforcing or administering this Chapter, each judge of the
7 court shall have the power to administer oaths and take affidavits, to subpoena and
8 require the attendance of witnesses and the production of books, papers, and
9 documents pertaining to the matter under inquiry, to examine witnesses at any
10 designated place of hearing, and to require the taking of depositions before any
11 person competent to administer oaths, either within or without the state, upon notice
12 to the interested party in like manner that depositions of witnesses are taken in civil
13 actions in the district courts of the state. Any party to a matter pending before the
14 court may summon witnesses or require the production of documents in the same
15 manner as witnesses are summoned or documents required to be produced in civil
16 actions in the district courts of the state.

17 B. In case of failure of any person to comply with any subpoena issued under
18 authority of this Chapter, or the refusal of a witness to testify to any matter regarding
19 which he may be lawfully interrogated, the judge of the district court of the parish
20 in which such person resides, or the parish in which such person may be personally
21 served, on application of the Tax Court judge or upon motion by any party, shall
22 compel obedience by ordering the issuance of an instanter subpoena, or other
23 appropriate process for contempt, or a rule as in the case of disobedience of the
24 requirements of a subpoena issued from the district court or a refusal to testify
25 therein.

26 §16.16. Ex parte consultations

27 Unless required for the disposition of ex parte matters authorized by law, a
28 presiding judge shall not communicate, directly or indirectly, in connection with any
29 issue of fact or law, with any party or his representative, or with any officer,

1 employee, or agent engaged in the performance of investigative, prosecuting, or
2 advocating functions, except upon notice and opportunity for all parties to
3 participate.

4 §16.17. Disqualification and withdrawal of judge

5 A. In accordance with the rules governing district judges in the state, a judge
6 shall voluntarily recuse himself and withdraw from any proceeding in which he
7 cannot accord a fair and impartial hearing or consideration or when required to by
8 applicable rules governing judges in the state.

9 B.(1) Any party may request the disqualification of a judge by filing a motion
10 to disqualify the judge supported by an affidavit, promptly upon learning of the basis
11 for the disqualification, stating with particularity the grounds upon which it is
12 claimed that a fair and impartial hearing cannot be accorded.

13 (2) The issue shall be determined promptly by the chief judge or other judges
14 of the court if the affidavit affects the chief judge.

15 (3) Upon the entry of an order of disqualification affecting a judge, the chief
16 judge shall then conduct the hearing or assign another judge to conduct the hearing.
17 Upon the entry of an order of disqualification affecting the chief judge, the other
18 judges shall assign another judge. In the event of the disqualification of every judge
19 of the court, the chief justice of the supreme court shall appoint a judge pro tempore
20 to preside in place of the disqualified judge in that proceeding. A judge pro tempore
21 shall possess the qualifications required of a judge of the Tax Court.

22 §16.18. Witness fees and mileage

23 Any person summoned or whose deposition is taken shall receive the same
24 fees and mileage as would be allowed in a civil action pending in the district courts
25 and the expense thereof shall be paid by the party summoning such witness or
26 causing the deposition to be taken. Such expenses may be assessed as costs of court
27 by the presiding judge or magistrate.

28 §16.19. Fees and charges; collection and disposition

1 Filing fees and other charges authorized by law and paid to the court shall be
2 collected by the clerk. Such funds may be expended for expenses necessary in the
3 operation of the court as appropriated.

4 §16.20. Fees

5 The filing fee of the Tax Court shall be three hundred dollars, and the filing
6 fee for the small claims division shall be fifty dollars; however, the Tax Court may,
7 by rule, revise such filing fees up to a maximum filing fee of five hundred dollars for
8 the Tax Court and up to a maximum of one hundred dollars for the small claims
9 division. The Tax Court also may, by rule, establish other fees chargeable for
10 services rendered by the court and its small claims division, including fees for
11 service of process.

12 §16.21. Judgments

13 A. Each judge shall, in each case heard by him, or in each case submitted to
14 him upon stipulation of agreement and fact, sign a written judgment, make a minute
15 entry, and issue signed written reasons for the judgment which include a concise
16 statement of the facts found by the court and the conclusions of law reached by the
17 court. The court shall adopt rules and regulations to address confidentiality of
18 taxpayer information and proceedings before it.

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

21 C. A judgment shall be binding upon all parties. Except as provided in R.S.
22 47:16.23 and this Section, the jurisdiction shall be final and definitive.

23 §16.22. Rehearing

24 A. A judgment shall be subject to rehearing, reopening, or reconsideration by
25 the court, within ten days from the date of its entry, based on any ground provided
26 for such action in the provisions of the Code of Civil Procedure applicable to nonjury
27 proceedings.

28 B. The petition of a party for rehearing, reconsideration, or review, and the
29 order of the court granting it, shall set forth the grounds which justify the action.

1 Nothing in this Section shall prevent rehearing, reopening, or reconsideration of a
2 matter by the court in accordance with other statutory provisions applicable to the
3 court, or, at any time, on the ground of fraud practiced by the prevailing party or of
4 procurement of the order by perjured testimony or fictitious evidence. On
5 reconsideration, reopening, or rehearing, the matter may be heard by the court. The
6 hearing shall be confined to those grounds upon which the reconsideration,
7 reopening, or rehearing was ordered. If an application for rehearing is timely filed,
8 the period within which judicial review under the applicable statute must be sought
9 shall run from the final disposition of the application.

10 C. For the convenience of the parties and the witnesses and in the interest of
11 justice, the court upon petition for rehearing, reconsideration, or review of the venue
12 for any review of the judgment, after contradictory hearing, may establish a different
13 venue, if venue was determined pursuant to R.S. 47:16.9(B)(2), or (4).

14 §16.23. Judicial review of Tax Court judgment

15 A. A final judgment or order of the court shall be subject to judicial review
16 by the Court of Appeal Circuit for the parish of venue. Interlocutory, nonfinal, and
17 nonappealable judgments and orders shall be reviewable as provided by the Code of
18 Civil Procedure.

19 B. Proceedings for review may be instituted by filing a petition with the
20 Court of Appeal Circuit for the parish of venue within thirty calendar days after
21 mailing notice of the judgment. If a rehearing is requested, the request shall be made
22 within thirty calendar days after mailing notice of the denial of the rehearing request
23 or the notice of the judgment.

24 C. A party seeking judicial review of the judgment of the Tax Court shall
25 provide bond as provided by law, except as specifically exempted by law or unless
26 the party is a taxpayer seeking a refund of taxes paid and no additional amount has
27 been found due.

28 D. When the Court of Appeal judge has ordered a review, a copy of the order
29 and petition shall be mailed to the clerk of the Tax Court and to each party or counsel

1 of record. The order shall command the clerk to send up, within twenty days from
2 the date thereof, the original transcript of the record, together with all exhibits and
3 evidence attached.

4 E. If, before the date set for hearing, application is made to the court for leave
5 to present additional evidence, and it is shown to the satisfaction of the court that the
6 additional evidence is material and that there were good reasons for failure to present
7 it in the proceeding before the Tax Court, the court may order that the additional
8 evidence be taken before the Tax Court upon conditions determined by the court.
9 The Tax Court may modify its findings and judgment by reason of the additional
10 evidence and shall file that evidence and any modifications, new findings, or
11 decisions with the reviewing court.

12 F. The review shall be conducted by the reviewing court without a jury and
13 shall be confined to the record. In cases of alleged irregularities in procedure before
14 the Tax Court, not shown in the record, proof thereon may be taken in the court. The
15 reviewing court, upon request, may hear oral argument and receive written briefs.

16 G. The reviewing court may affirm, amend, modify, or remand the judgment
17 of the Tax Court or remand the matter for further proceedings. The reviewing court
18 may reverse or modify the judgment of the Tax Court if the action of the Tax Court
19 is clearly erroneous as determined by the reviewing court. The reviewing court shall
20 make its own determination and conclusions of fact based upon its own evaluation
21 of the record reviewed in its entirety. Where the Tax Court has the opportunity to
22 judge the credibility of witnesses by first-hand observation of demeanor on the
23 witness stand and the reviewing court does not, due regard shall be given to the Tax
24 Court's determination of credibility of witnesses.

25 §16.24. Notification of right to file petition

26 In cases within the jurisdiction of the Tax Court, at the same time that notice
27 of the assessment, determination, or order of the secretary, is given to the taxpayer,
28 the secretary shall in writing also notify the taxpayer of his right to appeal to the Tax
29 Court.

1 §16.25. Annual report

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

8 §16.26. Rules

9 In all other matters regarding the conduct of its hearings, the court may
10 prescribe and promulgate rules not inconsistent with law or this Chapter. The rules
11 shall be binding upon parties litigant in any cause over which the jurisdiction of the
12 Tax Court extends. All rules of the court shall be adopted in accordance with the
13 Administrative Procedure Act with legislative review solely by the House Committee
14 on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs.

15 PART II. CLAIMS AGAINST THE STATE16 §16.31. Authority of Tax Court to receive and consider claims against the state

17 Any person having a claim against the state for taxes under the jurisdiction
18 of the Tax Court which were erroneously paid into the state treasury, may present
19 such claim to the court, in such form and together with proof as the court may
20 require by rule or regulation. The court shall consider the justice, merits, and
21 correctness of each claim presented to it and shall officially pass judgment on the
22 claim.

23 §16.32. Authority to conduct investigations

24 The Tax Court is authorized to examine and investigate as it may deem
25 necessary to determine the correctness of any claim presented. For that purpose, the
26 court is authorized to perform all of the following activities:

27 (1) Employ any expert accountant or clerical assistants that may be necessary.

28 (2) Appoint an agent to conduct any investigation deemed necessary by the
29 court to discover facts in connection with any claim.

1 where the penalty exceeds five thousand dollars, it can be waived by the secretary
2 only after approval by the ~~Board of Tax Appeals~~Tax Court.

3 * * *

4 §295. Tax imposed on individuals; administration

5 * * *

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

12 * * *

13 §303. Collection

14 * * *

15 B. Collection of tax on vehicles.

16 * * *

17 (5)

18 * * *

19 (d) the certificate of title or vehicle registration license has not been issued
20 within six months after the date of sale.

21 A refusal by the secretary of the Department of Revenue to authorize the
22 issuance of a certificate of title or a vehicle registration license may be appealed to
23 the ~~Board of Tax Appeals~~ Tax Court within sixty days from the date the application
24 for a certificate of title is denied by the secretary of the Department of Revenue.

25 §303.1. Direct Payment Numbers

26 * * *

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

29 * * *

1 §305.14. Exclusions and exemptions; nonprofit organizations; nature of exemption;
2 limitations; qualifications; newspapers; determination of tax exempt status

3 * * *

4 C. An exemption certificate must be obtained from the collector of revenue,
5 under such regulations as he shall prescribe, in order for nonprofit organizations to
6 qualify for the exemption provided in this section.

7 In the event the collector of revenue denies tax exempt status under this
8 section, the organization may appeal such ruling to the ~~Louisiana Board of Tax~~
9 ~~Appeals~~Tax Court, which may overrule the collector of revenue and grant tax
10 exempt status if the ~~Louisiana Board of Tax Appeals~~ Tax Court determines that the
11 denial of tax exempt status by the collector of revenue was arbitrary, capricious or
12 unreasonable.

13 * * *

14 §305.18. Exclusions and exemptions; fairs, festivals, and expositions sponsored by
15 nonprofit organizations; nature of exemption; limitations; qualifications

16 * * *

17 C. An exemption certificate must be obtained from the collector of revenue,
18 under such regulations as he shall prescribe, in order for nonprofit organizations to
19 qualify for the exemption provided in this section.

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

28 * * *

29 §305.20. Exclusions and exemptions; Louisiana commercial fishermen

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E. When a commercial fisherman objects to a refusal of the Department of Revenue to issue a certificate under this Section, he may appeal such ruling to the ~~Board of Tax Appeals~~Tax Court, which may overrule the secretary and grant tax exempt status if there is a determination that the denial was arbitrary, capricious, or unreasonable.

* * *

§305.53. Exclusions and exemptions; sickle cell disease organizations

* * *

B.

* * *

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

* * *

§1508.1. Unauthorized disclosure of information

* * *

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

* * *

§1520. Electronically filed returns; signatures

* * *

B. Failure to comply with the electronic filing requirements will result in the assessment of a penalty of one hundred dollars or five percent of the tax, whichever is greater. If it is determined that the failure to comply is attributable, not to the negligence of the taxpayer, but to other cause set forth in written form and

1 considered reasonable by the secretary, the secretary may remit or waive payment
2 of the whole or any part of the penalty. However, in any case where the penalty
3 exceeds twenty-five thousand dollars, such penalty may be waived by the secretary
4 only after approval by the ~~Board of Tax Appeals~~ Tax Court.

5 * * *

6 §1561. Alternative remedies for the collection of taxes

7 In addition to following any of the special remedies provided in the various
8 chapters of this subtitle, the collector may, in his discretion, proceed to enforce the
9 collection of any taxes due under this subtitle by means of any of the following
10 alternative remedies or procedures:

- 11 (1) Assessment and distraint, as provided in R.S. 47:1562 through 47:1573.
- 12 (2) Summary court proceeding, as provided in R.S. 47:1574.
- 13 (3) Ordinary suit under the provisions of the general laws regulating actions
14 for the enforcement of obligations.

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

26 * * *

27 §1565. Notice of assessment and right to appeal

28 A. Having assessed the amount determined to be due, the secretary shall
29 send a notice by certified mail to the taxpayer against whom the assessment is

1 imposed at the address given in the last report filed by said taxpayer, or to 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. If no report has been timely filed, the secretary shall send a notice
 6 by certified mail to the taxpayer against whom the assessment is imposed at any
 7 address obtainable from any private entity which will provide such address free of
 8 charge or from any federal, state, or local government entity, including but not
 9 limited to the United States Postal Service or from United States Postal service
 10 certified software. This notice shall inform the taxpayer of the assessment and that
 11 he has sixty calendar days from the date of the notice to either pay the amount of the
 12 assessment or to appeal to the ~~Board of Tax Appeals~~ Tax Court for a redetermination
 13 of the assessment. All such appeals shall be made in accordance with the provisions
 14 of Chapter 17, Subtitle II of this Title.

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

22 * * *

23 §1566. Assessment and notice when tax is in jeopardy

24 * * *

25 C. The taxpayer against whom the assessment lies can stay distraint of his
 26 property, or sale of his property already distrained, as the case may be, only by the
 27 immediate payment of the assessment or by posting with the collector a surety bond
 28 for twice the amount of such assessment, or of a lower amount acceptable to the
 29 collector, with such sureties as the collector deems necessary. The taxpayer shall

1 have sixty calendar days from the date of payment, or the date of posting bond, to
2 appeal to the ~~board of tax appeals~~ Tax Court in the manner set out in Chapter 17,
3 Sub-title II of this Title, for a redetermination of the assessment. During this period,
4 the collector shall hold any payment made in an escrow account. If the taxpayer
5 does not appeal, the collector shall immediately credit such payment to tax
6 collections or proceed to collect from sureties, if any were given. In the event of an
7 appeal, such payment or demand for payment from sureties given shall be held in
8 abeyance pending the redetermination or affirmation of the assessment by the board
9 of tax appeals or the court which last reviews the matter. Final payment, or
10 collection from sureties, will be for the amount of the affirmed or redetermined
11 assessment.

12 §1567. Assessment and claims in bankruptcy and receivership

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

1 an order of the court before which the bankruptcy or receivership proceedings is
2 pending, authorizing the trustee or receiver to prosecute such appeal.

3 * * *

4 §1578. Cancellation of lien, privilege, and mortgage; compromises

5 * * *

6 B.

7 * * *

8 (2) Subject to approval by the ~~Board of Tax Appeals~~ Tax Court, the
9 secretary may authorize the release of any real property from the effect and operation
10 of any lien, privilege, mortgage, or other encumbrance, recorded by virtue of this
11 Subtitle, provided, that the secretary is satisfied that the remaining real property
12 belonging to the tax debtor and upon which said lien, privilege, and mortgage bears,
13 is valued at not less than the amount of the remaining tax obligation, including all
14 penalties, interest and other costs incurred, and the amount of all prior liens upon
15 such property. In determining the value of the remaining property, due consideration
16 shall be given to prior ranking encumbrances, if any exist on said property.

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

28 (4)(a) Notwithstanding any other provision of this Chapter, the secretary,
29 with the approval of two assistant secretaries and the ~~Board of Tax Appeals~~ Tax

1 Court, may compromise any judgments for taxes of five hundred thousand dollars
2 or less exclusive of interest and penalty, including assessments for such amounts
3 which are equivalent to judgments upon a determination that any of the following
4 apply:

5 (i) There is serious doubt as to the collectibility of the outstanding judgment.

6 (ii) There is serious doubt as to the taxpayer's liability for the outstanding
7 judgment.

8 (iii) The administration and collection costs involved would exceed the
9 amount of the outstanding liability.

10 * * *

11 §1580. Suspension and interruption of prescription

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

14 * * *

15 (3) The filing of any pleading, either by the secretary or by a taxpayer, with
16 the ~~board of tax appeals~~ Tax Court or any state or federal court.

17 * * *

18 §1603. Waiver of penalty for delinquent filing or delinquent payment

19 A. If the failure to make any return at the time such return becomes due or
20 the filing of a return without remittance of the full amount due, is attributable, not
21 to the negligence of the taxpayer, but to other cause set forth in written form and
22 considered reasonable by the secretary of the Department of Revenue, the secretary
23 may remit or waive payment of the whole or any part of the specific penalty
24 provided for such failure; but in any case when the penalty exceeds five thousand
25 dollars, it can be waived by the secretary only after approval by the ~~board of tax~~
26 ~~appeals~~ Tax Court.

27 * * *

28 §1621. Refunds of overpayments authorized

29 * * *

1 47:1566, or 47:1567, finds that there is no tax due and further finds that the taxpayer
 2 has made a refundable overpayment of the tax for the period for which the collector
 3 asserted the claim for additional tax, the board shall have jurisdiction to determine
 4 the amount of such overpayment, and order that such amount be refunded or credited
 5 to the taxpayer; provided, that the Board shall order no such refund or credit unless,
 6 as part of its decision, it determines that the petition of appeal in which the refund
 7 or credit was requested was filed within the period set out in R.S. 47:1623 or that a
 8 claim for the refund or credit had been filed with the collector within that period.

9 §1627. Limitation on right of refund when petition is filed with ~~board of tax appeals~~
 10 the Tax Court

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

15 (1) As to overpayment determined by a decision of the ~~board~~ Tax Court,
 16 which has become final; and

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

19 * * *

20 §1688. Suspension of dealer's permit

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

26 §1689. Forfeiture of refunds

27 Any person who uses gasoline colored in accordance with R.S. 47:1684 in
 28 any vehicle or engine other than any commercial fishing boat, any vehicle used by
 29 a licensed commercial fisherman in the administration of business associated with

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

12 * * *

13 Section 6. R.S. 49:967(A) is hereby amended and reenacted to read as follows:

14 §967. Exemptions from provisions of Chapter

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

22 * * *

23 Section 7. R.S. 36:4(B)(1)(p), R.S. 47:1401 through 1416, 1431 through 1438, 1451,
 24 1471, 1481 through 1486 are hereby repealed in their entirety.

25 Section 8. The provisions of this Act are nonseverable. It is intended that if any
 26 provision of this Act, or the application thereof to any person or circumstance is held invalid
 27 under the Constitution of Louisiana or of the United States by a final and nonappealable
 28 judgment, then such provision's ineffectiveness or invalidity will invalidate this Act.

1 Section 9. All proceedings pending before the Board of Tax Appeals on January 1,
2 2014, within the jurisdiction of the Tax Court shall be transferred to the Tax Court.

3 Section 10. The Tax Court created by this Act shall exist on and after July 1, 2013,
4 after which date each judge may take any action that is necessary to enable him to properly
5 exercise, after January 1, 2014, the duties, functions, and powers of the Tax Court.

6 Section 11. The creation of the Tax Court shall not affect any proceeding,
7 prosecution, action, suit, or appeal commenced before January 1, 2014, in any court of
8 record. However, any proceeding pending before a district court on December 31, 2013, that
9 is within the jurisdiction of the Tax Court may be transferred to the Tax Court.

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

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Thierry

HB No. 585

Abstract: Creates the Tax Court and abolishes the Board of Tax Appeal.

Proposed law establishes the Tax Court within the La. Court of Appeals and abolishes the Board of Tax Appeals.

Proposed law provides with respect to the minimum number of Tax Court judges, their method of selection, criteria, term, vacancy, compensation and retirement age.

Proposed law provides with respect to the chief judge and the duties.

Proposed law provides that the Tax Court office shall be domiciled in the La. Court of Appeals office in EBR Parish.

Proposed law provides that the court may hold sessions at the Courts of Appeals within the parish of the taxpayer's domicile and that the parish governing authority (except EBR) upon the judge's request shall provide room in the courthouse or a neutral site at the parish seat when hearings are held within that parish.

Proposed law provides that there shall be a seal judicially noticed. The seal may be used to authenticate the official acts of the court or any judge, but failure to use the seal shall not invalidate any such act.

Proposed law provides that there will be staff consisting of a clerk, who shall serve as clerk of the Tax Court and shall be an ex officio notary public for the purposes of the court and the division, and shall give bond with good and solvent surety conditioned upon the faithful performance of his duties in the sum of \$10,000. The clerk shall be the custodian of the docket and records of all proceedings in the Tax Court.

Proposed law provides for the duties of the clerk and staff: administer oaths and affirmations, take depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, and other documents deemed necessary as evidence carrying out their duties.

Proposed law provides that no clerk or other employee of the court shall act as an attorney, counselor, or accountant in the matter of any tax or fee within the jurisdiction of the court.

Proposed law provides that the Tax Court shall have jurisdiction to hear and determine:

(1) A question of law or fact arising under the tax laws of the state administered by the LDR, including penalties, interest, fees imposed by the state not specifically excepted by proposed law, and costs related thereto, claims for refund of an overpayment or credit, and claims against the state for taxes paid erroneously pursuant to present law (R.S. 47:16.51 et seq.)

(2) A question of law or fact arising from any state fee administered or collected by the LDR.

(3) A question of law or fact arising from any state tax or fee administered or collected by the Office of Charitable Gaming or pursuant to Title 27 of the La. Revised Statutes of 1950.

(4) A question of law or fact arising from any state fee administered or collected by the Office of Alcohol and Tobacco Control.

(5) Any matter over which the Tax Court has jurisdiction transferred to the court by a district court or the La. State and Local Sales Tax Commission.

(6) An action by a taxpayer or collector seeking a judgment declaring that a rule of the LDR applicable to a tax or fee within the jurisdiction of the court is contrary to or inconsistent with law.

(7) The underpayment of taxes on natural resources levied pursuant to present law (R.S. 47:631, et seq.)

(8) Lien Cancellations.

(9) Penalty Waivers.

Proposed law provides that jurisdiction of the Tax Court, shall not extend to:

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

(2) Insurance premium taxes.

(3) The collection or enforcement of any final nonappealable assessment or judgment.

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

(5) Any criminal matter.

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

Proposed law provides that the venue and place of hearing for proceedings brought against the state shall be the Court of Appeal Circuit where the taxpayer is domiciled or at the Tax Court in EBR, at the election of the taxpayer and proceedings brought against the state shall be subject to review by the Court of Appeal Circuit for the parish of venue. Hearings may be held at other locations provided that all parties consent. If there is not mutual consent ,

the judge shall determine the best location with as little inconvenience and expense as is practicable.

Proposed law provides that all matters over which the Tax Court has jurisdiction shall be filed with the Court of Appeal Circuit where the taxpayer is domiciled or at the Tax Court in East Baton Rouge Parish, and filing fees paid to, the clerk of the Court of Appeal Circuit or Tax Court, depending on where suit is instituted.

Proposed law provides that a suit shall be filed with the clerk of the Court of Appeal Circuit or Tax Court in the manner provided for civil actions in district court within the applicable time period set forth in law. The pleadings in the petition shall set forth the basis of jurisdiction and venue.

Proposed law provides that the Tax Court shall develop forms and information and make them available in any reasonable manner the court determines as well as convenience regarding filing, filing fees and follow-up.

Proposed law provides that the proceedings shall be governed first by the administrative provisions of Title 47 of the La. Revised Statutes of 1950, then by the Code of Civil Procedure to the extent that such provisions do not conflict with administrative provisions of Title 47 of the La. Revised Statutes of 1950, and thereafter by the administrative provisions of Title 47 of the La. Revised Statutes of 1950 when in conflict with the Code of Civil Procedure.

Proposed law provides that the court may order consolidated or expedited proceedings.

Proposed law provides that the court rules regulate service of process.

Proposed law provides that evidence in the Tax Court shall be governed by the provisions of the Code of Evidence applicable to non-jury trials.

Proposed law provides that persons authorized to appear before the court may be a party who represents himself, a La. licensed attorney at law, an enrolled agent, a CPA, at the discretion of the court, a licensed attorney at law, under the laws of another state or DC or a CPA licensed under the laws of another state or DC and who gives evidence of his qualifications satisfactory to the court.

Proposed law provides that each judge of the court shall have the power to administer oaths and take affidavits, subpoena and require the attendance of witnesses and the production of printed material pertaining to the matter under inquiry, to examine witnesses, and to require the taking of depositions before any person competent to administer oaths, either within or without the state, upon notice to the interested party in like manner that depositions of witnesses are taken in civil actions in the district courts of the state. Parties may summon witnesses or require production of documents.

Proposed law provides that failure to comply with a subpoena or the refusal of a witness to testify to any matter regarding which he may be lawfully interrogated, the district judge where the person resides, or the parish in which such person may be personally served, on application of the Tax Court judge or upon motion by any party, shall compel obedience by ordering the issuance of an instanter subpoena, or other appropriate process for contempt, or a rule as in the case of disobedience of the requirements of a subpoena issued from the district court or a refusal to testify therein.

Proposed law provides that unless required for the disposition of ex parte matters authorized by law, a presiding judge shall not communicate in connection with any issue of fact or law, with any party or his representative, or with any officer, employee, or agent engaged in the performance of investigative, prosecuting, or advocating functions, except upon notice and opportunity for all parties to participate.

Proposed law provides that in accordance with the rules governing district judges in the state, a judge shall voluntarily recuse himself and withdraw from any proceeding in which he cannot accord a fair and impartial hearing or consideration or when required governing rules.

Proposed law provides that any party may request the disqualification of a judge by filing a motion to disqualify the judge supported by an affidavit, promptly upon learning of the basis for the disqualification, stating the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded and the issue shall be determined promptly by the chief judge or other judges of the court if the affidavit affects the chief judge, with hearings conducted accordingly.

Proposed law provides that any person summoned or whose deposition is taken shall receive the same fees and mileage as would be allowed in a civil action pending in the district courts and the expense thereof shall be paid by the party summoning such witness or causing the deposition to be taken and such expenses may be assessed as costs of court by the presiding judge or magistrate.

Proposed law provides that filing fees and other charges authorized by law and paid to the court shall be collected by the clerk and expended for expenses necessary in the operation of the court as appropriated.

Proposed law provides for a filing fee of \$300, and the filing fee for the small claims division shall be \$50; however, the Tax Court may, by rule, revise such filing fees up to a maximum filing fee of \$500 for the Tax Court and up to a maximum of \$100 for the small claims division. The Tax Court also may, by rule, establish other fees chargeable for services rendered by the court and its small claims division, including fees for service of process.

Proposed law provides that each judge shall make a minute entry and issue signed written reasons for the judgment which include a concise statement of the facts found by the court and the conclusions of law reached by the court. The court shall adopt rules and regulations to address confidentiality of taxpayer information and proceedings before it.

Proposed law provides that each judgment of the court and written reasons for the judgment shall be published in the manner which the court deems most effective and practicable.

Proposed law provides that a judgment shall be binding upon all parties and with certain exceptions, shall be final and definitive.

Proposed law provides that a judgment shall be subject to rehearing, reopening, or reconsideration by the court, within 10 days from the date of its entry, based on any ground provided for such action in the provisions of the Code of Civil Procedure applicable to nonjury proceedings.

Proposed law provides that the petition of a party for rehearing, reconsideration, or review, and the order of the court granting it, shall set forth the grounds which justify the action. Nothing in proposed law shall prevent rehearing, reopening, or reconsideration of a matter because of fraud, perjury or fictitious evidence. The matter may be heard again but the evidence confined to those grounds upon which the reconsideration, reopening, or rehearing was ordered. If an application for rehearing is timely filed, the period within which judicial review under the applicable statute must be sought shall run from the final disposition of the application.

Proposed law provides that for the convenience of the parties and witnesses and in the interest of justice, the court upon petition for rehearing, reconsideration, or review of the venue for any review of the judgment, after contradictory hearing, may establish a different venue, if venue was determined pursuant to present law (R.S. 47:16.9(B)(2), or (4).

Proposed law provides that a final judgment or order of the court shall be subject to judicial review by the Court of Appeal Circuit for the parish of venue. Interlocutory, nonfinal, and nonappealable judgments and orders shall be reviewable as provided by the Code of Civil Procedure.

Proposed law provides that proceedings for review may be instituted by filing a petition with the Court of Appeal Circuit for the parish of venue within 30 calendar days after mailing notice of the judgment. If a rehearing is requested, the request shall be made within 30 calendar days after mailing notice of the denial of the rehearing request or the notice of the judgment.

Proposed law provides that a party seeking judicial review of the judgment of the Tax Court shall provide bond as provided by law, except as specifically exempted by law or unless the party is a taxpayer seeking a refund of taxes paid and no additional amount has been found due.

Proposed law provides that when the Court of Appeal judge has ordered a review, a copy of the order and petition shall be mailed to the clerk of the Tax Court and to each party or counsel of record. The order shall command the clerk to send up, within 20 days from the date thereof, the original transcript of the record, together with all exhibits and evidence attached.

Proposed law provides that if, before the date set for hearing, application is made to the court for additional evidence, that additional evidence is shown to be material and that there were good reasons for failure to present it in the proceeding before the Tax Court, the court may order that the additional evidence be taken before the Tax Court upon conditions determined by the court. The Tax Court may modify its findings and judgment by reason of the additional evidence and shall file that evidence and any modifications, new findings, or decisions with the reviewing court.

Proposed law provides that a review shall be conducted by the reviewing court without a jury and shall be confined to the record and in cases of alleged procedural irregularities in procedure before the Tax Court, not shown in the record, proof thereon may be taken in the court. The reviewing court, upon request, may hear oral argument and receive written briefs

Proposed law provides that the reviewing court may affirm, amend, modify, or remand the judgment of the Tax Court or remand the matter for further proceedings, may reverse or modify the judgment if the Tax Court is clearly erroneous as determined by the reviewing court. The reviewing court shall make its own determination and conclusions of fact based upon its own evaluation of the record reviewed in its entirety. Where the Tax Court has the opportunity to judge the credibility of witnesses by first-hand observation of demeanor on the witness stand and the reviewing court does not, due regard shall be given to the Tax Court's determination of credibility of witnesses.

Proposed law provides that the secretary shall in writing also notify the taxpayer of his right to appeal to the Tax Court.

Proposed law provides that the chief judge of the Tax Court shall submit a written annual report to the governor, the legislature, and the supreme court.

Proposed law provides that the court may prescribe and promulgate rules in accordance with the APA with legislative review solely by the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs.

Proposed law provides that any person having a claim against the state for taxes under the jurisdiction of the Tax Court which were erroneously paid into the state treasury, may present such claim to the court, in such form and together with proof as the court may

require by rule or regulation and shall consider, examine and investigate evidence, and pass judgment on the claim.

Proposed law provides that, with certain exceptions, claims against the state which have been approved by the Tax Court shall be payable from monies appropriated to the Tax Court for the satisfaction of claims.

Proposed law provides that an action of the Tax Court rejecting or refusing to approve any claim may not be appealed to the courts; however, nothing contained in this Part shall deny a claimant whose claim has been rejected by the court the right to sue in a court of jurisdiction.

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

(Amends R.S. 13:312(1)(a), R.S. 26:354(I), 492(A), 458(F), R.S. 39:51.1(A)(1)(b), R.S. 47:15(14), 114(F)(3), 295(C), 303(B)(5)(d), 303.1(G), 305.14(C), 305.18(C), 305.20(E), 305.53(B)(2), 1508.1(B), 1520(B), 1561, 1565(A) and (B), 1566(C), 1567, 1578(B)(2), (3) and (4)(a), 1580(A)(3), 1603(A), 1621(F), 1625 through 1627, 1688, 1689; Adds R.S. 13:312(B), 47:16.1 through 26 and 16.31 through 34; Repeals R.S. 36:4(B)(1)(p), R.S. 47:1401 through 1416, 1431 through 1438, 1451, 1471 and 1481 through 1486)