HOUSE COMMITTEE AMENDMENTS

Amendments proposed by House Committee on Ways and Means to Original House Bill No. 863 by Representative Danahay

1 AMENDMENT NO. 1

- 2 On page 1, at the beginning of line 6, after "1451," insert "and R.S. 49:967(A) and 3 968(B)(9)," and after "R.S. 47:337.2(A)(1)(c)," insert "337.77(G),"
- 4 AMENDMENT NO. 2
- 5 On page 1, at the beginning of line 7, after "1414(E)," insert "1417,"
- 6 AMENDMENT NO. 3
- On page 2, at the beginning of line 10, after "<u>be a</u>" delete "<u>local tax division</u>" and insert
 "<u>Local Tax Division</u>"
- 9 AMENDMENT NO. 4
- 10 On page 2, line 22, after "R.S. 47:337.2(A)(1)(c)," insert "337.77(G),"
- 11 AMENDMENT NO. 5
- 12 On page 2, line 23, after "1414(E)," insert "1417,"
- 13 AMENDMENT NO. 6
- 14 On page 3, line 3, after "<u>distributed</u>" insert "<u>from the current collections of the tax</u>"
- 15 AMENDMENT NO. 7
- On page 3, line 23, after "<u>assessments</u>" and before the comma "," insert "<u>or denials or inaction on a refund claim</u>"
- 18 AMENDMENT NO. 8
- On page 6, line 19, after "<u>R.S. 47:337.63 or</u>" and before the comma "," delete "<u>337.64</u>" and insert a comma "," and "<u>pursued an alternative remedy in accordance with R.S. 47:337.64</u>"
- 21 <u>AMENDMENT NO. 9</u>
- 22 On page 9, at the end of line 19, insert a comma ","
- 23 AMENDMENT NO. 10
- 24 On page 9, at the beginning of line 21, insert "at that time"
- 25 AMENDMENT NO. 11
- 26 On page 11, at the end of line 22, delete the comma "," and delete line 23 in its entirety, and
- from the beginning of line 24, delete "<u>administered by the collector</u>" and insert thefollowing:
- 29 "to determine whether the taxpayer owes any other liability for the same type of tax"

1 AMENDMENT NO. 12

2 On page 12, between lines 13 and 14, insert the following:

3 "G. A claim for a refund or credit in a properly addressed envelope with
4 sufficient postage delivered by the United States Postal Service is deemed filed by
5 the taxpayer and received by the collector on the date postmarked by the United
6 States Postal Service. Additionally, a claim for refund or credit is deemed filed by
7 the taxpayer and received by the collector through any means provided for by any
8 regulation promulgated pursuant to R.S. 47:337.97 through 337.100."

- 9 AMENDMENT NO. 13
- 10 On page 13, line 3, after "<u>ordering the</u>" delete "<u>refunding</u>" and insert "<u>refund</u>" and after 11 "<u>overpayment or</u>" insert "<u>ordering</u>"
- 12 AMENDMENT NO. 14
- On page 13, line 4, after "interest," delete "and penalty" and insert "penalty, attorney fees,
 and other amounts"
- 15 AMENDMENT NO. 15
- 16 On page 14, line 1, after "<u>calendar</u>" change "<u>day</u>" to "<u>days</u>"
- 17 AMENDMENT NO. 16
- 18 On page 17, at the beginning of line 12, after "A." insert "(1)"
- 19 AMENDMENT NO. 17
- 20 On page 17, line 13, after "<u>Appeals.</u>" insert
- 21 "<u>(2)</u>"
- 22 AMENDMENT NO. 18
- 23 On page 17, between lines 15 and 16, insert the following:
- 24 "(3) The member appointed pursuant to R.S. 47:1402(D) shall be the hearing 25 judge of the Local Tax Division of the board. For the purposes of the Local Tax Division, the judge shall exercise all jurisdiction, authority, and powers of the board 26 27 and its chairman, including the hearing of cases to be adjudicated in the division and the rendering of orders and judgments in such cases. The remainder of the board 28 29 may temporarily exercise these functions during any vacancy in this appointment, but may only hear and render judgment in a case in the division if this appointment 30 31 remains vacant for more than ninety days."
- 32 AMENDMENT NO. 19
- 33 On page 17, at the beginning of line 27, delete "case" and insert "pre-trial matter"
- 34 AMENDMENT NO. 20
- 35 On page 18, between lines 4 and 5, insert the following:
- 36"(6)(a)(i) Upon the joint motion of all parties in any matter, or pursuant to37an election made by the local collector in accordance with the provisions of

2 board's Local Tax Division. 3 (ii) A case designated to be heard in the Local Tax Division shall be 4 adjudicated as provided for in RS. 47:1403(A)(3). 5 (iii) A case designated to be heard in the Local Tax Division may thereafter 6 instead be heard and adjudicated by the entire board only upon the joint motion of 7 all parties. However, any board member may exercise the powers granted in R.S. 8 47:1408, and the chairman may issue other non-dispositive orders concerning cases 9 in the division upon the joint motion of all parties or, in the absence of and at the 10 direction of the hearing judge. 11 (b) A local collector may elect in advance to have all cases against that local 12 collector heard in the Local Tax Division. Such election shall be made, or repealed, in the form of an affidavit executed by the local collector. The affidavit shall be 13 14 effective only for those cases filed with the board against that local collector at least 15 ninety days after the filing of the affidavit with the board's secretary-clerk. The 16 secretary-clerk shall publish a list on the board's website identifying the respective 17 dates on which any such affidavits were filed." 18 19 AMENDMENT NO. 21 20 On page 18, line 18, after "B.(1)" delete "In any case against the state collector, the" and 21 insert "The" 22 AMENDMENT NO. 22 23 On page 18, delete lines 21 and 22 in their entirety and insert the following: 24 "(2) Upon the request of any party, the board shall issue written reasons in 25 addition to its judgment in a case." 26 AMENDMENT NO. 23 27 On page 19, between lines 13 and 14, insert the following: 28 "§1417. Recusal; board members 29 30 A. In accordance with the provisions of the Louisiana Code of Civil 31 Procedure, a board member may voluntarily recuse himself and withdraw from any 32 proceeding in which he cannot accord a fair and impartial hearing or consideration. 33 B.(1) Any party may also request the recusal of a board member by filing a 34 motion for recusal promptly upon learning of the basis for the disqualification, 35 stating with particularity the grounds upon which it is claimed that a fair and 36 impartial hearing cannot be accorded. 37 (2) The issue shall be determined promptly by the remaining board members in accordance with the rules of the Louisiana Code of Civil Procedure concerning the 38 39 recusal of district judges. 40 C.(1) Upon the entry of an order of recusal concerning a board member or 41 members, the remaining board members may hear and decide the case, or the 42 chairman may assign the case to be heard in accordance with R.S. 47:1403(B)(2), 43 and the board member acting as hearing judge shall render the judgment of the 44 board.

Subparagraph (b) of this Paragraph, a case filed with the board shall be heard in the

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(2) If all board members are recused, the chairman shall promptly notify the chief justice of the Louisiana Supreme Court, who shall appoint a retired judge to adjudicate the case as a hearing judge ad hoc for the board and to render the judgment of the board in the matter. For purposes of this Subsection, any person who has held office as a judge pursuant to Article V, Section 22 of the Constitution of Louisiana may be appointed. The retired judge shall be compensated pursuant to R.S. 11:1384 from funds available to the board, and these expenses may be assessed as costs.

10(3) Upon entry of an order of recusal concerning the board member presiding11over a case in the Local Tax Division, the case shall be reassigned to be heard in12accordance with Paragraph (2) of this Subsection, or, upon a joint motion of all13parties it may either be heard pursuant to Paragraph (1) of this Subsection or be14transferred to the district court of proper venue.

15D. Notwithstanding any provision of law to the contrary, including Chapter1615 of Title 42 of the Revised Statutes of 1950, as amended, if any member of the17board is recused from a case pursuant to this Section, he may continue to serve as a18member of the board while the remainder of the board adjudicates a taxpayer's19appeal or claim, but the board member shall have no participation or involvement in20any case in which he is recused."

21 AMENDMENT NO. 24

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- 22 On page 21, line 17, after "taxpayer" insert "or collector"
- 23 AMENDMENT NO. 25
- 24 On page 22, line 6, after "<u>a</u>" insert "<u>sales and use</u>"
- 25 AMENDMENT NO. 26

On page 24, at the beginning of line 2, delete "Whenever" and insert "Except as otherwise
 provided by law, whenever"

28 AMENDMENT NO. 27

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- 29 On page 24, at the beginning of line 12, after "Section 3." insert the following:
- 30 "R.S. 49:967(A) and 968(B)(9) are hereby amended and reenacted to read as follows:
- 32 §967. Exemptions from provisions of Chapter

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

- 40 * * *
- 41 §968. Review of agency rules; fees

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CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

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1 B. Prior to the adoption, amendment, or repeal of any rule or the adoption, 2 increasing, or decreasing of any fee, the agency shall submit a report relative to such 3 proposed rule change or fee adoption, increase, or decrease to the appropriate 4 standing committees of the legislature and the presiding officers of the respective houses as provided in this Section. The report shall be so submitted on the same day 5 the notice of the intended action is submitted to the Louisiana Register for 6 7 publication in accordance with R.S. 49:953(A)(1). The report shall be submitted to each standing committee electronically if electronic means are available. If no 8 9 electronic means are available, the report shall be submitted at the committee's office 10 in the state capitol by certified mail with return receipt requested or by messenger 11 who shall provide a receipt for signature. The electronic receipt by the committee, return receipt or the messenger's receipt shall be proof of receipt of the report by the 12 13 committee. * 14

(9) The Department of Civil Service and all of the agencies made a part of it shall submit the report to the House Committee on House and Governmental Affairs and the Senate Committee on Senate and Governmental Affairs; however, the Board of Tax Appeals shall submit the report to the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs.

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- 20 * *
- 21 Section 4."

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- 22 AMENDMENT NO. 28
- 23 On page 24, at the beginning of line 14, change "Section 4." to "Section 5."
- 24 AMENDMENT NO. 29
- 25 On page 24, at the beginning of line 21, change "Section 5." to "Section 6."
- 26 AMENDMENT NO. 30
- 27 On page 25, at the beginning of line 1, change "Section 6." to "Section 7."
- 28 AMENDMENT NO. 31
- 29 On page 25, between lines 7 and 8, insert the following:

30 "Section 8. The one hundred eighty day deadline to appeal a local collector's
31 inaction on a refund claim to the Board of Tax Appeals pursuant to R.S. 47:81(A)(2)
32 shall not restrict any appeal filed with the Board of Tax Appeals prior to January 1,
33 2015.

Section 9. Any case filed with the Board of Tax Appeals against a local collector prior to January 1, 2015, shall be heard in the board's Local Tax Division pursuant to the provisions of R.S. 47:1403(6)(a) unless the local collector in its initial answer to the taxpayer's petition prays to have the case heard by the entire board."

- 38 AMENDMENT NO. 32
- 39 On page 25, at the beginning of line 8, change "Section 7." to "Section 10."
- 40 AMENDMENT NO. 33
- 41 On page 25, at the beginning of line 10, change "Section 8." to "Section 11."

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1 AMENDMENT NO. 34

- 2 On page 25, line 11, after "Bill No." delete "___" and insert "798"
- 3 AMENDMENT NO. 35
- 4 On page 25, at the end of line 12, insert the following:
- 5 "If vetoed by the governor and subsequently approved by the legislature, this Act
 6 shall become effective on July 1, 2014, or on the day following such approval by the
 7 legislature, whichever is later."