

First Regular Session  
Sixty-ninth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 13-0324.02 Esther van Mourik x4215

HOUSE BILL 13-1140

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HOUSE SPONSORSHIP

Stephens,

SENATE SPONSORSHIP

(None),

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House Committees

Finance  
Appropriations

Senate Committees

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A BILL FOR AN ACT

101 CONCERNING THE ESTABLISHMENT OF THE COLORADO INDEPENDENT  
102 TAX APPEAL COURT.

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Bill Summary

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

The bill creates the Colorado independent tax appeal court and delineates its powers, duties, and responsibilities. On and after January 1, 2015, the tax appeal court is responsible for the independent review of most of the final determinations of the executive director of the department of revenue.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.



1 FURTHER THIS INTENT.

2 **39-21-402. Definitions.** AS USED IN THIS PART 4, UNLESS THE  
3 CONTEXT OTHERWISE REQUIRES:

4 (1) "TAX APPEAL COURT" MEANS THE COLORADO INDEPENDENT  
5 TAX APPEAL COURT ESTABLISHED IN THIS PART 4.

6 (2) "TAXPAYER" MEANS A PERSON WHO HAS RECEIVED A NOTICE  
7 OF FINAL DETERMINATION, A NOTICE OF DENIAL OF REFUND CLAIM, A  
8 PROTESTABLE NOTICE OF DEFICIENCY, A CLAIM DENIAL, OR A  
9 PROTESTABLE NOTICE OF PENALTY LIABILITY WITHIN THE TAX APPEAL  
10 COURT'S JURISDICTION. "TAXPAYER" INCLUDES A PERSON:

11 (a) WHO IS CHALLENGING THE STATE'S JURISDICTION OVER THE  
12 PERSON; AND

13 (b) WHO HAS STANDING TO CHALLENGE THE VALIDITY OR  
14 APPLICABILITY OF THE TAX.

15 **39-21-403. Colorado independent tax appeal court established.**

16 (1) THE COLORADO INDEPENDENT TAX APPEAL COURT, OR TAX APPEAL  
17 COURT, IS HEREBY ESTABLISHED. THE TAX APPEAL COURT SHALL HAVE  
18 THE POWERS AND DUTIES ENUMERATED IN THIS PART 4, TOGETHER WITH  
19 SUCH OTHERS CONFERRED UPON IT BY LAW. THE TAX APPEAL COURT  
20 SHALL BE SEPARATE FROM AND INDEPENDENT OF THE AUTHORITY OF THE  
21 DEPARTMENT AND ITS EXECUTIVE DIRECTOR.

22 (2) THE TAX APPEAL COURT SHALL BE CREATED AND EXIST ON AND  
23 AFTER JANUARY 1, 2015, BUT THE JUDGES THEREOF MAY BE APPOINTED  
24 PRIOR THERETO AND MAY THEN TAKE ANY ACTION THAT IS NECESSARY TO  
25 ENABLE THE JUDGES TO EXERCISE THE DUTIES, FUNCTIONS, AND POWERS  
26 GIVEN THE TAX APPEAL COURT UNDER THIS PART 4 ON AND AFTER  
27 JANUARY 1, 2015.

1           (3) EXCEPT AS OTHERWISE LIMITED BY THIS PART 4, THE TAX  
2 APPEAL COURT HAS ALL OF THE POWERS NECESSARY OR CONVENIENT TO  
3 CARRY OUT THE PURPOSES AND PROVISIONS OF THIS PART 4, INCLUDING  
4 WITHOUT LIMITATION EACH OF THE FOLLOWING:

5           (a) TO HAVE A SEAL, AND TO ALTER THAT SEAL AT PLEASURE, AND  
6 TO USE IT BY CAUSING IT OR A FACSIMILE TO BE AFFIXED OR IMPRESSED OR  
7 REPRODUCED IN ANY OTHER MANNER;

8           (b) TO ACCEPT AND EXPEND APPROPRIATIONS;

9           (c) TO OBTAIN AND EMPLOY PERSONNEL AS REQUIRED IN THIS PART  
10 4, INCLUDING ANY ADDITIONAL PERSONNEL NECESSARY TO FULFILL THE  
11 TAX APPEAL COURT'S PURPOSES, AND TO MAKE EXPENDITURES FOR  
12 PERSONNEL WITHIN APPROPRIATIONS FOR THAT PURPOSE;

13           (d) TO MAINTAIN OFFICES AT SUCH PLACES AS REQUIRED UNDER  
14 THIS PART 4, AND ELSEWHERE AS THE TAX APPEAL COURT MAY  
15 DETERMINE; AND

16           (e) TO ENGAGE IN ANY ACTIVITY OR OPERATION THAT IS  
17 INCIDENTAL TO AND IN FURTHERANCE OF EFFICIENT OPERATION TO  
18 ACCOMPLISH THE TAX APPEAL COURT'S PURPOSES.

19           **39-21-404. Number of judges - appointment - term - removal.**

20           (1) THE TAX APPEAL COURT SHALL CONSIST OF AT LEAST ONE FULL-TIME  
21 JUDGE. IF THERE IS MORE THAN ONE JUDGE, EACH JUDGE SHALL EXERCISE  
22 THE POWERS OF THE TAX APPEAL COURT.

23           (2) THE JUDGES OF THE TAX APPEAL COURT SHALL BE APPOINTED  
24 BY THE GOVERNOR, WITH THE ADVICE AND CONSENT OF THE SENATE, FOR  
25 A TERM OF TEN YEARS. IF THE TAX APPEAL COURT HAS MORE THAN ONE  
26 JUDGE, THE JUDGES INITIALLY APPOINTED SHALL BE GIVEN TERMS OF  
27 DIFFERENT LENGTHS NOT EXCEEDING TEN YEARS, SO THAT ALL JUDGES'

1 TERMS DO NOT EXPIRE IN THE SAME YEAR.

2 (3) EACH JUDGE OF THE TAX APPEAL COURT SHALL RECEIVE AN  
3 ANNUAL SALARY NO LESS THAN THAT PROVIDED FOR DISTRICT COURT  
4 JUDGES UNDER STATE LAW, WHICH SALARY SHALL NOT BE DIMINISHED  
5 DURING THE JUDGE'S TERM OF APPOINTMENT.

6 (4) ONCE APPOINTED AND CONFIRMED, EACH JUDGE SHALL  
7 CONTINUE IN OFFICE UNTIL HIS OR HER TERM EXPIRES AND UNTIL A  
8 SUCCESSOR HAS BEEN APPOINTED AND CONFIRMED.

9 (5) A VACANCY IN THE TAX APPEAL COURT OCCURRING OTHERWISE  
10 THAN BY EXPIRATION OF TERM SHALL BE FILLED FOR THE UNEXPIRED TERM  
11 IN THE SAME MANNER AS AN ORIGINAL APPOINTMENT.

12 (6) IF MORE THAN ONE JUDGE IS APPOINTED, THE GOVERNOR SHALL  
13 DESIGNATE ONE OF THE MEMBERS AS CHIEF JUDGE. THE CHIEF JUDGE  
14 SHALL BE THE EXECUTIVE OF THE TAX APPEAL COURT, SHALL HAVE SOLE  
15 CHARGE OF THE ADMINISTRATION OF THE TAX APPEAL COURT, AND SHALL  
16 APPORTION AMONG THE JUDGES ALL CAUSES, MATTERS, AND PROCEEDINGS  
17 COMING BEFORE THE TAX APPEAL COURT. THE INDIVIDUAL DESIGNATED  
18 AS CHIEF JUDGE SHALL SERVE IN THAT CAPACITY AT THE PLEASURE OF THE  
19 GOVERNOR.

20 (7) THE GOVERNOR MAY REMOVE A JUDGE, AFTER NOTICE AND AN  
21 OPPORTUNITY TO BE HEARD, FOR NEGLECT OF DUTY, INABILITY TO  
22 PERFORM DUTIES, MALFEASANCE IN OFFICE, OR OTHER GOOD CAUSE, WITH  
23 THE ADVICE AND CONSENT OF THE SENATE.

24 (8) WHENEVER THE TAX APPEAL COURT TRIAL DOCKET OR  
25 BUSINESS BECOMES CONGESTED OR ANY JUDGE OF THE TAX APPEAL COURT  
26 IS ABSENT, IS DISQUALIFIED, OR FOR ANY OTHER REASON IS UNABLE TO  
27 PERFORM HIS OR HER DUTIES AS JUDGE, AND IT APPEARS TO THE

1 GOVERNOR THAT IT IS ADVISABLE THAT THE SERVICES OF AN ADDITIONAL  
2 JUDGE OR JUDGES BE PROVIDED, THE GOVERNOR MAY APPOINT A JUDGE,  
3 OR JUDGES, PRO TEMPORE OF THE TAX APPEAL COURT. ANY PERSON  
4 APPOINTED JUDGE PRO TEMPORE OF THE TAX APPEAL COURT SHALL HAVE  
5 THE QUALIFICATIONS SET FORTH IN SECTION 39-21-405 AND SHALL BE  
6 ENTITLED TO SERVE FOR A PERIOD NO LONGER THAN SIX MONTHS.

7 (9) A JUDGE MAY DISQUALIFY HIMSELF OR HERSELF ON HIS OR HER  
8 OWN MOTION IN ANY MATTER, AND MAY BE DISQUALIFIED FOR ANY OF THE  
9 CAUSES SPECIFIED IN THE COLORADO CODE OF JUDICIAL CONDUCT.

10 **39-21-405. Judges - qualifications - prohibition against other**  
11 **gainful employment.** (1) A JUDGE APPOINTED TO THE TAX APPEAL  
12 COURT SHALL BE A CITIZEN OF THE UNITED STATES AND, DURING THE  
13 PERIOD OF HIS OR HER SERVICE, A RESIDENT OF COLORADO. NO PERSON  
14 SHALL BE APPOINTED AS A JUDGE UNLESS AT THE TIME OF APPOINTMENT  
15 THE INDIVIDUAL HAS SUBSTANTIAL KNOWLEDGE OF THE TAX LAW AND  
16 SUBSTANTIAL EXPERIENCE MAKING THE RECORD IN A TAX CASE SUITABLE  
17 FOR JUDICIAL REVIEW.

18 (2) BEFORE ENTERING UPON THE DUTIES OF OFFICE, EACH JUDGE  
19 SHALL TAKE AND SUBSCRIBE TO AN OATH OR AFFIRMATION THAT HE OR  
20 SHE WILL FAITHFULLY DISCHARGE THE DUTIES OF THE OFFICE, AND SUCH  
21 OATH SHALL BE FILED IN THE OFFICE OF THE SECRETARY OF STATE.

22 (3) EACH JUDGE SHALL DEVOTE HIS OR HER FULL TIME DURING  
23 BUSINESS HOURS TO THE DUTIES OF HIS OR HER OFFICE. A JUDGE SHALL  
24 NOT ENGAGE IN ANY OTHER GAINFUL EMPLOYMENT OR BUSINESS, NOR  
25 HOLD ANOTHER OFFICE OR POSITION OF PROFIT IN A GOVERNMENT OF THIS  
26 STATE, ANY OTHER STATE OR THE UNITED STATES. NOTWITHSTANDING  
27 THE FOREGOING PROVISIONS, A JUDGE MAY OWN PASSIVE INTERESTS IN

1 BUSINESS ENTITIES AND EARN INCOME FROM INCIDENTAL TEACHING OR  
2 SCHOLARLY ACTIVITIES.

3 **39-21-406. Principal office - locations - facilities.** (1) THE TAX  
4 APPEAL COURT'S PRINCIPAL OFFICE SHALL BE LOCATED IN DENVER,  
5 COLORADO.

6 (2) THE TAX APPEAL COURT SHALL CONDUCT HEARINGS AT ITS  
7 PRINCIPAL OFFICE. THE TAX APPEAL COURT MAY ALSO HOLD HEARINGS AT  
8 ANY PLACE WITHIN THE STATE, WITH A VIEW TOWARD SECURING TO  
9 TAXPAYERS A REASONABLE OPPORTUNITY TO APPEAR BEFORE THE TAX  
10 APPEAL COURT WITH AS LITTLE INCONVENIENCE AND EXPENSE AS  
11 PRACTICABLE.

12 (3) THE PRINCIPAL OFFICE OF THE TAX APPEAL COURT SHALL BE  
13 LOCATED IN A BUILDING THAT IS SEPARATE AND APART FROM THE  
14 BUILDING IN WHICH THE DEPARTMENT IS LOCATED. WHEN THE TAX APPEAL  
15 COURT HOLDS HEARINGS OUTSIDE OF ITS PRINCIPAL OFFICE, IT SHALL DO  
16 SO IN A LOCATION THAT IS PHYSICALLY SEPARATED FROM FACILITIES  
17 REGULARLY OCCUPIED BY THE DEPARTMENT.

18 (4) THE STATE SHALL PROVIDE HEARING ROOMS, CHAMBERS, AND  
19 OFFICES FOR THE TAX APPEAL COURT AT ITS PRINCIPAL OFFICE AND SHALL  
20 ARRANGE FOR HEARING ROOMS, CHAMBERS, AND OFFICES OR OTHER  
21 APPROPRIATE FACILITIES WHEN HEARINGS ARE HELD ELSEWHERE.

22 **39-21-407. Appointment of clerk and reporter - expenditures**  
23 **of the tax appeal court.** (1) THE TAX APPEAL COURT SHALL APPOINT A  
24 CLERK AND A COURT REPORTER, AND MAY APPOINT SUCH OTHER  
25 EMPLOYEES AND MAKE SUCH OTHER EXPENDITURES, INCLUDING  
26 EXPENDITURES FOR LIBRARY, PUBLICATIONS, AND EQUIPMENT, AS ARE  
27 NECESSARY TO PERMIT IT TO EFFICIENTLY EXECUTE ITS FUNCTIONS.

1           (2) THE COURT REPORTER SHALL FUNCTION AS IF APPOINTED BY A  
2 JUDGE OF THE DISTRICT COURT, EXCEPT WHERE SUCH PROVISIONS ARE IN  
3 CONFLICT WITH THIS PART 4.

4           (3) NO EMPLOYEE OF THE TAX APPEAL COURT SHALL ACT AS  
5 ATTORNEY, REPRESENTATIVE, OR ACCOUNTANT FOR OTHERS IN A MATTER  
6 INVOLVING ANY TAX IMPOSED OR LEVIED BY THIS STATE.

7           (4) AN EMPLOYEE OF THE TAX APPEAL COURT MAY BE REMOVED  
8 BY THE CHIEF JUDGE, AFTER NOTICE AND AN OPPORTUNITY TO BE HEARD,  
9 FOR NEGLECT OF DUTY, INABILITY TO PERFORM DUTIES, MALFEASANCE IN  
10 OFFICE, OR FOR OTHER GOOD CAUSE.

11           (5) IN ADDITION TO THE SERVICES OF THE COURT REPORTER, THE  
12 TAX APPEAL COURT MAY HIRE PRIVATE REPORTERS FOR ITS PROCEEDINGS  
13 AND, IN THE CONTRACT, FIX THE TERMS AND CONDITIONS UNDER WHICH  
14 TRANSCRIPTS WILL BE SUPPLIED BY THE CONTRACTOR TO THE TAX APPEAL  
15 COURT AND TO OTHER PERSONS AND AGENCIES.

16           **39-21-408. Jurisdiction of the tax appeal court.** (1) EXCEPT AS  
17 PROVIDED BY THE CONSTITUTION OF THE UNITED STATES, THE STATE  
18 CONSTITUTION, AND NOTWITHSTANDING ANY OTHER PROVISION OF STATE  
19 LAW, COMMENCING ON AND AFTER JANUARY 1, 2015, THE TAX APPEAL  
20 COURT SHALL HAVE ORIGINAL JURISDICTION OVER FINAL DETERMINATIONS  
21 OF THE EXECUTIVE DIRECTOR OF THE DEPARTMENT ISSUED PURSUANT TO  
22 SECTION 39-21-103, 39-21-104, 39-21-104.5, OR 39-21-105.

23           (2) EXCEPT AS PERMITTED BY SECTION 39-21-415, NO PERSON  
24 SHALL CONTEST ANY MATTER WITHIN THE JURISDICTION OF THE TAX  
25 APPEAL COURT IN ANY ACTION, SUIT, OR PROCEEDING IN THE DISTRICT  
26 COURT OR ANY OTHER COURT OF THE STATE. IF A PERSON ATTEMPTS TO DO  
27 SO, THEN SUCH ACTION, SUIT, OR PROCEEDING SHALL BE DISMISSED



1 WITHOUT PREJUDICE. THE IMPROPER COMMENCEMENT OF ANY ACTION,  
2 SUIT, OR PROCEEDING WILL NOT EXTEND THE TIME FOR COMMENCING A  
3 PROCEEDING IN THE TAX APPEAL COURT.

4 (3) EXCEPT IN CASES INVOLVING THE DENIAL OF A CLAIM FOR  
5 REFUND AND EXCEPT AS PROVIDED IN SECTION 39-21-111 REGARDING  
6 JEOPARDY ASSESSMENTS, AND NOTWITHSTANDING SECTION 39-21-105,  
7 THE TAXPAYER SHALL HAVE THE RIGHT TO HAVE HIS OR HER CASE HEARD  
8 BY THE TAX APPEAL COURT PRIOR TO THE PAYMENT OF ANY OF THE  
9 AMOUNTS ASSERTED AS DUE BY THE DEPARTMENT AND PRIOR TO THE  
10 POSTING OF ANY BOND.

11 (4) IF, WITH OR AFTER THE FILING OF A TIMELY PETITION, THE  
12 TAXPAYER PAYS ALL OR PART OF THE TAX OR OTHER AMOUNT IN ISSUE  
13 BEFORE THE TAX APPEAL COURT HAS RENDERED A DECISION, THE TAX  
14 APPEAL COURT SHALL TREAT THE TAXPAYER'S PETITION AS A PROTEST OF  
15 A DENIAL OF A CLAIM FOR REFUND OF THE AMOUNT SO PAID.

16 (5) THE TAX APPEAL COURT SHALL DECIDE QUESTIONS REGARDING  
17 THE CONSTITUTIONALITY OF THE APPLICATION OF A TAX STATUTE TO THE  
18 TAXPAYER AND THE CONSTITUTIONALITY OF REGULATIONS PROMULGATED  
19 BY THE DEPARTMENT, BUT SHALL NOT HAVE THE POWER TO DECLARE A  
20 STATUTE UNCONSTITUTIONAL ON ITS FACE. A TAXPAYER DESIRING TO  
21 CHALLENGE THE CONSTITUTIONALITY OF A STATUTE ON ITS FACE MAY, AT  
22 THE TAXPAYER'S ELECTION, DO SO BY ONE OF THE FOLLOWING METHODS:

23 (a) COMMENCE A DECLARATORY ACTION IN THE DISTRICT COURT  
24 OF THIS STATE WITH RESPECT TO THE CONSTITUTIONAL CHALLENGE AND  
25 FILE A PETITION IN THE TAX APPEAL COURT WITH RESPECT TO THE  
26 REMAINDER OF THE MATTER, WHICH PROCEEDING SHALL BE STAYED BY  
27 THE TAX APPEAL COURT PENDING FINAL RESOLUTION OF THE

1 CONSTITUTIONAL CHALLENGE;

2 (b) FILE A PETITION WITH THE TAX APPEAL COURT WITH RESPECT  
3 TO ISSUES OTHER THAN THE CONSTITUTIONAL CHALLENGE, IN WHICH THE  
4 TAXPAYER PRESERVES THE CONSTITUTIONAL CHALLENGE UNTIL THE  
5 ENTIRE MATTER, INCLUDING THE CONSTITUTIONAL CHALLENGE AND THE  
6 FACTS RELATED TO THE CONSTITUTIONAL CHALLENGE, IS PRESENTED TO  
7 THE APPELLATE COURT; OR

8 (c) COMMENCE AND SIMULTANEOUSLY PROSECUTE A  
9 DECLARATORY ACTION IN THE DISTRICT COURT WITH RESPECT TO THE  
10 CONSTITUTIONAL CHALLENGE AND A PROCEEDING IN THE TAX APPEAL  
11 COURT WITH RESPECT TO THE REMAINDER OF THE ISSUES.

12 **39-21-409. Pleadings.** (1) A TAXPAYER MAY COMMENCE A  
13 PROCEEDING IN THE TAX APPEAL COURT BY FILING A PETITION PROTESTING  
14 THE DEPARTMENT'S DETERMINATION IMPOSING A LIABILITY FOR TAX,  
15 PENALTY, OR INTEREST; DENYING A REFUND OR CREDIT APPLICATION;  
16 CANCELING, REVOKING, SUSPENDING OR DENYING AN APPLICATION FOR A  
17 LICENSE, PERMIT OR REGISTRATION; OR TAKING ANY OTHER ACTION THAT  
18 GIVES A PERSON THE RIGHT TO A HEARING UNDER THE LAW. THE PETITION  
19 SHALL BE FILED IN THE TAX APPEAL COURT NO LATER THAN NINETY DAYS  
20 AFTER RECEIPT OF THE DEPARTMENT'S WRITTEN NOTICE OF SUCH  
21 DETERMINATION.

22 (2) THE DEPARTMENT SHALL FILE ITS ANSWER IN THE TAX APPEAL  
23 COURT NO LATER THAN SEVENTY-FIVE DAYS AFTER ITS RECEIPT OF THE  
24 TAX APPEAL COURT'S NOTIFICATION THAT THE TAXPAYER HAS FILED A  
25 PETITION IN PROPER FORM. UPON WRITTEN REQUEST, THE TAX APPEAL  
26 COURT MAY GRANT UP TO FIFTEEN ADDITIONAL DAYS TO FILE AN ANSWER.  
27 THE DEPARTMENT SHALL SERVE A COPY ON THE TAXPAYER'S

1 REPRESENTATIVE OR, IF THE TAXPAYER IS NOT REPRESENTED, ON THE  
2 TAXPAYER, AND SHALL FILE PROOF OF SUCH SERVICE WITH THE ANSWER.  
3 MATERIAL FACTS ALLEGED IN THE PETITION, IF NOT EXPRESSLY ADMITTED  
4 OR DENIED IN THE ANSWER, SHALL BE DEEMED ADMITTED. IF THE  
5 DEPARTMENT FAILS TO ANSWER WITHIN THE PRESCRIBED TIME, ALL  
6 MATERIAL FACTS ALLEGED IN THE PETITION SHALL BE DEEMED ADMITTED.

7 (3) THE TAXPAYER MAY FILE A REPLY IN THE TAX APPEAL COURT  
8 WITHIN THIRTY DAYS AFTER RECEIPT OF THE ANSWER. THE TAXPAYER  
9 SHALL SERVE A COPY ON THE AUTHORIZED REPRESENTATIVE OF THE  
10 DEPARTMENT AND SHALL FILE PROOF OF SUCH SERVICE WITH THE REPLY.  
11 IF THE TAXPAYER FAILS TO REPLY WITHIN THE PRESCRIBED TIME, ALL  
12 MATERIAL FACTS ALLEGED IN THE ANSWER SHALL BE DEEMED DENIED.  
13 WHEN A REPLY HAS BEEN FILED OR, IF NO REPLY HAS BEEN FILED, THEN  
14 THIRTY DAYS AFTER THE FILING OF THE ANSWER, THE CONTROVERSY  
15 SHALL BE DEEMED AT ISSUE AND WILL BE SCHEDULED FOR HEARING.

16 (4) EITHER PARTY MAY AMEND A PLEADING ONCE WITHOUT LEAVE  
17 AT ANY TIME BEFORE THE PERIOD FOR RESPONDING TO IT EXPIRES. AFTER  
18 SUCH TIME, A PLEADING MAY BE AMENDED ONLY WITH THE WRITTEN  
19 CONSENT OF THE ADVERSE PARTY OR WITH THE PERMISSION OF THE TAX  
20 APPEAL COURT. THE TAX APPEAL COURT SHALL FREELY CONSENT TO  
21 AMEND UPON SUCH TERMS AS MAY BE JUST. EXCEPT AS OTHERWISE  
22 ORDERED BY THE TAX APPEAL COURT, THERE SHALL BE AN ANSWER OR  
23 REPLY TO AN AMENDED PLEADING IF AN ANSWER OR REPLY IS REQUIRED  
24 TO THE PLEADING BEING AMENDED. FILING OF THE ANSWER OR, IF THE  
25 ANSWER HAS ALREADY BEEN FILED, THE AMENDED ANSWER, SHALL BE  
26 MADE NO LATER THAN SEVENTY-FIVE DAYS AFTER FILING OF THE  
27 AMENDED PETITION. FILING OF THE REPLY OR, IF THE REPLY HAS ALREADY

1 BEEN FILED, THE AMENDED REPLY, SHALL BE MADE WITHIN THIRTY DAYS  
2 AFTER FILING OF THE AMENDED ANSWER. THE TAXPAYER MAY NOT AMEND  
3 A PETITION AFTER EXPIRATION OF THE TIME FOR FILING A PETITION IF SUCH  
4 AMENDMENT WOULD HAVE THE EFFECT OF CONFERRING JURISDICTION ON  
5 THE TAX APPEAL COURT OVER A MATTER THAT WOULD OTHERWISE NOT  
6 COME WITHIN ITS JURISDICTION. AN AMENDMENT OF A PLEADING SHALL  
7 RELATE BACK TO THE TIME OF FILING OF THE ORIGINAL PLEADING, UNLESS  
8 THE TAX APPEAL COURT SHALL ORDER OTHERWISE EITHER ON MOTION OF  
9 A PARTY OR ON THE TAX APPEAL COURT'S OWN INITIATIVE.

10 **39-21-410. Fees.** (1) UPON FILING A PETITION, THE TAXPAYER  
11 SHALL PAY TO THE CLERK A FEE IN THE AMOUNT OF TWENTY DOLLARS;  
12 EXCEPT THAT, IN CASE OF A PETITION FILED IN THE SMALL CLAIMS DIVISION  
13 AS PROVIDED IN SECTION 39-21-414, THE FEE SHALL BE FIVE DOLLARS. A  
14 SIMILAR FEE SHALL BE PAID BY OTHER PARTIES MAKING AN APPEARANCE  
15 IN THE PROCEEDING; EXCEPT THAT NO FEE SHALL BE CHARGED TO A  
16 GOVERNMENT BODY OR GOVERNMENT OFFICIAL APPEARING IN A  
17 REPRESENTATIVE CAPACITY.

18 (2) THE TAX APPEAL COURT MAY FIX A FEE, NOT IN EXCESS OF THE  
19 FEES CHARGED AND COLLECTED BY THE CLERKS OF THE DISTRICT COURTS,  
20 FOR COMPARING, OR FOR PREPARING AND COMPARING, A TRANSCRIPT OF  
21 THE RECORD, OR FOR COPYING ANY RECORD, ENTRY, OR OTHER PAPER AND  
22 THE COMPARISON AND CERTIFICATION THEREOF.

23 **39-21-411. Discovery and stipulation.** (1) THE PARTIES TO A  
24 PROCEEDING SHALL MAKE EVERY EFFORT TO ACHIEVE DISCOVERY BY  
25 INFORMAL CONSULTATION OR COMMUNICATION BEFORE INVOKING THE  
26 DISCOVERY MECHANISMS AUTHORIZED BY THIS SECTION.

27 (2) THE PARTIES TO A PROCEEDING SHALL STIPULATE ALL

1 RELEVANT AND NONPRIVILEGED MATTERS TO THE FULLEST EXTENT TO  
2 WHICH COMPLETE OR QUALIFIED AGREEMENT CAN OR FAIRLY SHOULD BE  
3 REACHED. NEITHER THE EXISTENCE NOR THE USE OF THE DISCOVERY  
4 MECHANISMS AUTHORIZED BY THIS SECTION SHALL EXCUSE FAILURE TO  
5 COMPLY WITH THIS PROVISION.

6 (3) (a) SUBJECT TO REASONABLE LIMITATIONS PRESCRIBED BY THE  
7 TAX APPEAL COURT, A PARTY MAY OBTAIN DISCOVERY BY:

8 (I) WRITTEN INTERROGATORIES;

9 (II) REQUESTS FOR THE PRODUCTION OF RETURNS, BOOKS, PAPERS,  
10 DOCUMENTS, CORRESPONDENCE, OR OTHER EVIDENCE;

11 (III) DEPOSITIONS OF PARTIES, NONPARTY WITNESSES, AND  
12 EXPERTS; OR

13 (IV) REQUESTS FOR ADMISSIONS.

14 (b) THE TAX APPEAL COURT MAY PROVIDE FOR OTHER FORMS OF  
15 DISCOVERY.

16 (4) THE JUDGE OR THE CLERK OF THE TAX APPEAL COURT, ON THE  
17 REQUEST OF ANY PARTY TO THE PROCEEDING, SHALL ISSUE SUBPOENAS  
18 REQUIRING THE ATTENDANCE OF WITNESSES AND GIVING OF TESTIMONY  
19 AND SUBPOENAS DUCES TECUM REQUIRING THE PRODUCTION OF EVIDENCE  
20 OR THINGS.

21 (5) A JUDGE MAY GRANT AN EMPLOYEE OF THE TAX APPEAL COURT  
22 THE AUTHORITY TO ADMINISTER OATHS.

23 (6) ANY WITNESS SUBPOENAED OR WHOSE DEPOSITION IS TAKEN  
24 SHALL RECEIVE THE SAME FEES AND MILEAGE AS A WITNESS IN A DISTRICT  
25 COURT OF THIS STATE.

26 (7) THE TAX APPEAL COURT MAY ENFORCE ITS ORDERS ON  
27 DISCOVERY AND OTHER PROCEDURAL ISSUES, AMONG OTHER MEANS, BY

1 DECIDING ISSUES WHOLLY OR PARTLY AGAINST THE OFFENDING PARTY.

2 **39-21-412. Hearings.** (1) PROCEEDINGS BEFORE THE TAX APPEAL  
3 COURT SHALL BE TRIED DE NOVO AND, TO THE EXTENT PERMISSIBLE UNDER  
4 THE CONSTITUTION, WITHOUT A JURY.

5 (2) EXCEPT AS SET FORTH IN THIS PART 4 OR OTHERWISE  
6 PRECLUDED BY LAW, THE TAX APPEAL COURT SHALL TAKE EVIDENCE,  
7 CONDUCT HEARINGS, AND ISSUE FINAL AND INTERLOCUTORY DECISIONS.

8 (3) HEARINGS SHALL BE OPEN TO THE PUBLIC AND SHALL BE  
9 CONDUCTED IN ACCORDANCE WITH SUCH RULES OF PRACTICE AND  
10 PROCEDURE AS THE TAX APPEAL COURT MAY PROMULGATE.  
11 NOTWITHSTANDING THE FOREGOING, IF A PARTY SHOWS GOOD CAUSE TO  
12 PROTECT CERTAIN INFORMATION FROM BEING DISCLOSED TO THE PUBLIC,  
13 EITHER PARTY MAY MAKE A MOTION FOR A PROTECTIVE ORDER OR AN  
14 ORDER CLOSING PART OR ALL OF THE HEARING TO THE PUBLIC.

15 (4) THE TAX APPEAL COURT SHALL NOT BE BOUND BY THE RULES  
16 OF EVIDENCE APPLICABLE TO CIVIL CASES IN THE STATE'S DISTRICT  
17 COURTS. THE TAX APPEAL COURT SHALL ADMIT RELEVANT EVIDENCE,  
18 INCLUDING HEARSAY, IF IT IS PROBATIVE OF A MATERIAL FACT IN  
19 CONTROVERSY. THE TAX APPEAL COURT SHALL EXCLUDE IRRELEVANT AND  
20 UNDULY REPETITIOUS EVIDENCE. NOTWITHSTANDING THE FOREGOING, THE  
21 RULES OF PRIVILEGE RECOGNIZED BY LAW SHALL APPLY.

22 (5) TESTIMONY MAY BE GIVEN ONLY ON OATH OR AFFIRMATION.

23 (6) THE PETITION AND OTHER PLEADINGS IN THE PROCEEDING  
24 SHALL BE DEEMED TO CONFORM TO THE PROOF PRESENTED AT THE  
25 HEARING, UNLESS A PARTY SATISFIES THE TAX APPEAL COURT THAT  
26 PRESENTATION OF THE EVIDENCE WOULD UNFAIRLY PREJUDICE THE PARTY  
27 IN MAINTAINING ITS POSITION ON THE MERITS OR UNLESS DEEMING THE

1 TAXPAYER'S PETITION TO CONFORM TO THE PROOF WOULD CONFER  
2 JURISDICTION ON THE TAX APPEAL COURT OVER A MATTER THAT WOULD  
3 NOT OTHERWISE COME WITHIN ITS JURISDICTION.

4 (7) IN THE CASE OF AN ISSUE OF FACT, THE TAXPAYER SHALL HAVE  
5 THE BURDEN OF PERSUASION BY A PREPONDERANCE OF THE EVIDENCE IN  
6 THE RECORD; EXCEPT THAT THE DEPARTMENT SHALL HAVE THE BURDEN  
7 OF PERSUASION IN THE CASE OF AN ASSERTION OF FRAUD AND IN OTHER  
8 CASES PROVIDED BY LAW.

9 (8) PROCEEDINGS BEFORE THE TAX APPEAL COURT, EXCEPT THOSE  
10 BEFORE THE SMALL CLAIMS DIVISION AS PROVIDED IN SECTION 39-21-414,  
11 SHALL BE OFFICIALLY REPORTED. THE STATE SHALL PAY THE EXPENSE OF  
12 REPORTING FROM THE APPROPRIATION FOR THE TAX APPEAL COURT.

13 **39-21-413. Decisions.** (1) THE TAX APPEAL COURT SHALL RENDER  
14 ITS DECISION IN WRITING, INCLUDING THEREIN A CONCISE STATEMENT OF  
15 THE FACTS FOUND AND THE CONCLUSIONS OF LAW REACHED. THE TAX  
16 APPEAL COURT'S DECISION SHALL GRANT SUCH RELIEF, INVOKE SUCH  
17 REMEDIES, AND ISSUE SUCH ORDERS AS IT DEEMS APPROPRIATE TO CARRY  
18 OUT ITS DECISION.

19 (2) THE TAX APPEAL COURT SHALL RENDER ITS DECISION NO LATER  
20 THAN SIX MONTHS AFTER SUBMISSION OF THE LAST BRIEF FILED  
21 SUBSEQUENT TO COMPLETION OF THE HEARING OR, IF BRIEFS ARE NOT  
22 SUBMITTED, THEN NO LATER THAN SIX MONTHS AFTER COMPLETION OF THE  
23 HEARING. THE TAX APPEAL COURT MAY EXTEND THE SIX-MONTH PERIOD  
24 FOR GOOD CAUSE, UP TO THREE ADDITIONAL MONTHS.

25 (3) IF THE TAX APPEAL COURT FAILS TO RENDER A DECISION  
26 WITHIN THE PRESCRIBED PERIOD, EITHER PARTY MAY COMMENCE A  
27 PROCEEDING IN THE DISTRICT COURT TO COMPEL THE ISSUANCE OF SUCH

1 DECISION.

2 (4) THE TAX APPEAL COURT'S DECISION REGARDING MATTERS IN  
3 CONTROVERSY SHALL BE FINAL, UNLESS ANY PARTY TO THE MATTER  
4 TIMELY APPEALS THE DECISION AS PROVIDED IN SECTION 39-21-415.

5 (5) THE TAX APPEAL COURT'S DECISION SHALL HAVE THE SAME  
6 EFFECT, AND SHALL BE ENFORCED IN THE SAME MANNER, AS A JUDGMENT  
7 OF A DISTRICT COURT OF THE STATE.

8 (6) THE TAX APPEAL COURT'S INTERPRETATION OF A TAXING  
9 STATUTE SUBJECT TO CONTEST IN A CASE SHALL BE FOLLOWED BY THE TAX  
10 APPEAL COURT IN SUBSEQUENT CASES INVOLVING THE SAME STATUTE,  
11 AND ITS APPLICATION OF A STATUTE TO THE FACTS OF A CASE SHALL BE  
12 FOLLOWED BY THE TAX APPEAL COURT IN SUBSEQUENT CASES INVOLVING  
13 SIMILAR FACTS, UNLESS THE TAX APPEAL COURT'S INTERPRETATION OR  
14 APPLICATION CONFLICTS WITH THAT OF AN APPELLATE COURT OR THE TAX  
15 APPEAL COURT PROVIDES SATISFACTORY REASONS FOR REVERSING PRIOR  
16 PRECEDENT.

17 **39-21-414. Small claims division - establishment - jurisdiction.**

18 (1) THERE IS HEREBY ESTABLISHED A SMALL CLAIMS DIVISION OF THE TAX  
19 APPEAL COURT.

20 (2) JUDGES OF THE TAX APPEAL COURT SHALL SIT AS JUDGES OF  
21 THE SMALL CLAIMS DIVISION.

22 (3) IF THE TAXPAYER TIMELY ELECTS TO PROCEED IN THE SMALL  
23 CLAIMS DIVISION AS SPECIFIED IN SUBSECTION (4) OF THIS SECTION, THE  
24 SMALL CLAIMS DIVISION SHALL HAVE JURISDICTION OVER ANY  
25 PROCEEDING WITH RESPECT TO ANY CALENDAR YEAR FOR WHICH THE NET  
26 AMOUNT OF THE TAX DEFICIENCIES AND CLAIMED REFUNDS IN  
27 CONTROVERSY DOES NOT EXCEED TWENTY-FIVE THOUSAND DOLLARS,



1 EXCLUSIVE OF INTEREST AND PENALTIES.

2 (4) A TAXPAYER MAY ELECT TO PROCEED IN THE SMALL CLAIMS  
3 DIVISION OF THE TAX APPEAL COURT BY FILING A PETITION IN THE FORM  
4 PRESCRIBED BY THE TAX APPEAL COURT NO LATER THAN NINETY DAYS  
5 AFTER THE TAXPAYER'S RECEIPT OF WRITTEN NOTICE OF THE  
6 DETERMINATION THAT IS THE SUBJECT OF THE PETITION. A TAXPAYER MAY  
7 NOT REVOKE AN ELECTION TO PROCEED IN THE SMALL CLAIMS DIVISION.

8 (5) NO LATER THAN THIRTY DAYS AFTER RECEIPT OF NOTICE THAT  
9 THE TAXPAYER HAS FILED A PROPER PETITION TO PROCEED IN SMALL  
10 CLAIMS DIVISION, OR AT SUCH OTHER TIME AS THE TAX APPEAL COURT  
11 MAY ORDER, THE DEPARTMENT SHALL FILE WITH THE TAX APPEAL COURT  
12 AN ANSWER SIMILAR TO THAT REQUIRED BY SECTION 39-21-409.

13 (6) AT ANY TIME PRIOR TO ENTRY OF JUDGMENT, A TAXPAYER MAY  
14 DISMISS A PROCEEDING IN THE SMALL CLAIMS DIVISION BY NOTIFYING THE  
15 CLERK OF THE TAX APPEAL COURT IN WRITING. SUCH DISMISSAL SHALL BE  
16 WITH PREJUDICE, AND SHALL NOT HAVE THE EFFECT OF REVOKING THE  
17 ELECTION.

18 (7) HEARINGS IN THE SMALL CLAIMS DIVISION SHALL BE INFORMAL,  
19 AND THE JUDGE MAY RECEIVE SUCH EVIDENCE AS THE JUDGE DEEMS  
20 APPROPRIATE FOR DETERMINATION OF THE CASE. TESTIMONY SHALL BE  
21 GIVEN UNDER OATH OR AFFIRMATION.

22 (8) A JUDGMENT OF THE SMALL CLAIMS DIVISION SHALL BE  
23 CONCLUSIVE UPON ALL PARTIES AND MAY NOT BE APPEALED. A JUDGMENT  
24 OF THE SMALL CLAIMS DIVISION SHALL NOT BE CONSIDERED AS PRECEDENT  
25 IN ANY OTHER CASE, HEARING, OR PROCEEDING.

26 (9) SECTIONS 39-21-401 TO 39-21-413 AND SECTIONS 39-21-415  
27 TO 39-21-420 APPLY TO PROCEEDINGS IN THE SMALL CLAIMS DIVISION

1 UNLESS MADE EXPRESSLY INAPPLICABLE THERETO OR THE RESULT WOULD  
2 BE INCONSISTENT WITH THE PROVISIONS OF THIS SECTION.

3 **39-21-415. Appeals.** (1) THE TAXPAYER OR THE DEPARTMENT  
4 SHALL BE ENTITLED TO JUDICIAL REVIEW OF A FINAL DECISION OF THE TAX  
5 APPEAL COURT, EXCEPT A FINAL DECISION OF THE SMALL CLAIMS DIVISION,  
6 IN ACCORDANCE WITH THE PROCEDURE FOR FILING AN ACTION IN DISTRICT  
7 COURT AS PROVIDED BY SECTION 39-21-105, BUT WITHOUT REGARD TO  
8 THE SUM INVOLVED. THE TAXPAYER OR THE DEPARTMENT MAY OBTAIN  
9 JUDICIAL REVIEW IN THE DISTRICT COURT OF AN INTERLOCUTORY DECISION  
10 OF THE TAX APPEAL COURT UNDER THE SAME CONDITIONS AND AS AN  
11 INTERLOCUTORY DECISION OF THE DISTRICT COURT.

12 (2) THE RECORD ON JUDICIAL REVIEW SHALL INCLUDE THE  
13 DECISION OF THE TAX APPEAL COURT, THE STENOGRAPHIC TRANSCRIPT OF  
14 THE HEARING BEFORE THE TAX APPEAL COURT, THE PLEADINGS, AND ALL  
15 EXHIBITS AND DOCUMENTS ADMITTED INTO EVIDENCE.

16 (3) JUDICIAL REVIEW OF A DECISION OF THE TAX APPEAL COURT  
17 SHALL BE DE NOVO.

18 **39-21-416. Representation.** (1) (a) APPEARANCES IN  
19 PROCEEDINGS CONDUCTED BY THE TAX APPEAL COURT MAY BE BY:

20 (I) THE TAXPAYER;

21 (II) AN ATTORNEY ADMITTED TO PRACTICE IN THIS STATE,  
22 INCLUDING AN ATTORNEY WHO IS A PARTNER OR MEMBER OF, OR IS  
23 EMPLOYED BY, AN ACCOUNTING OR OTHER PROFESSIONAL SERVICES FIRM;

24 (III) AN ACCOUNTANT LICENSED IN THIS STATE; OR

25 (IV) AN ENROLLED AGENT AUTHORIZED TO PRACTICE BEFORE THE  
26 INTERNAL REVENUE SERVICE.

27 (b) (I) THE TAX APPEAL COURT MAY ALLOW ANY ATTORNEY OR

1 ACCOUNTANT AUTHORIZED TO PRACTICE OR LICENSED IN ANY OTHER  
2 JURISDICTION OF THE UNITED STATES TO APPEAR AND REPRESENT A  
3 TAXPAYER IN PROCEEDINGS BEFORE THE TAX APPEAL COURT FOR A  
4 PARTICULAR MATTER.

5 (II) THE TAX APPEAL COURT MAY PROMULGATE RULES AND  
6 REGULATIONS PERMITTING A TAXPAYER TO BE REPRESENTED BY AN  
7 OFFICER, EMPLOYEE, PARTNER, OR MEMBER.

8 (2) THE DEPARTMENT SHALL BE REPRESENTED BY AN AUTHORIZED  
9 REPRESENTATIVE IN ALL PROCEEDINGS BEFORE THE TAX APPEAL COURT.

10 **39-21-417. Publication of decisions.** EXCEPT FOR DECISIONS  
11 ISSUED BY THE SMALL CLAIMS DIVISION, THE TAX APPEAL COURT SHALL  
12 INDEX AND PUBLISH ITS FINAL DECISIONS IN SUCH PRINT OR ELECTRONIC  
13 FORM AS IT DEEMS BEST ADAPTED FOR PUBLIC CONVENIENCE. SUCH  
14 PUBLICATIONS SHALL BE MADE PERMANENTLY AVAILABLE AND  
15 CONSTITUTE THE OFFICIAL REPORTS OF THE TAX APPEAL COURT.

16 **39-21-418. Service of process.** (1) MAILING BY FIRST CLASS OR  
17 CERTIFIED OR REGISTERED MAIL, POSTAGE PREPAID, TO THE ADDRESS OF  
18 THE TAXPAYER GIVEN ON THE TAXPAYER'S PETITION, OR TO THE ADDRESS  
19 OF THE TAXPAYER'S REPRESENTATIVE OF RECORD, IF ANY, OR TO THE  
20 USUAL PLACE OF BUSINESS OF THE DEPARTMENT, SHALL CONSTITUTE  
21 PERSONAL SERVICE ON THE OTHER PARTY. THE TAX APPEAL COURT MAY  
22 BY RULE PRESCRIBE THAT NOTICE BY OTHER MEANS SHALL CONSTITUTE  
23 PERSONAL SERVICE AND MAY IN A PARTICULAR CASE ORDER THAT NOTICE  
24 BE GIVEN TO ADDITIONAL PERSONS OR BY OTHER MEANS.

25 (2) MAILING BY REGISTERED OR CERTIFIED MAIL AND DELIVERY BY  
26 A PRIVATE DELIVERY SERVICE APPROVED BY THE INTERNAL REVENUE  
27 SERVICE IN ACCORDANCE WITH SECTION 7502 (f) OF THE FEDERAL

1 "INTERNAL REVENUE CODE OF 1986", AS AMENDED, SHALL BE DEEMED TO  
2 HAVE OCCURRED, RESPECTIVELY, ON THE DATE OF MAILING AND THE DATE  
3 OF SUBMISSION TO THE PRIVATE DELIVERY SERVICE.

4 **39-21-419. Rules and forms.** THE TAX APPEAL COURT IS  
5 AUTHORIZED TO PROMULGATE AND ADOPT ALL REASONABLE RULES AND  
6 FORMS AS MAY BE NECESSARY OR APPROPRIATE TO CARRY OUT THE  
7 INTENT AND PURPOSES OF THIS PART 4.

8 **39-21-420. Applicability.** ANY ADMINISTRATIVE PROCEEDING IN  
9 WHICH A HEARING HAS COMMENCED PRIOR TO JANUARY 1, 2015, SHALL BE  
10 TRANSFERRED TO THE TAX APPEAL COURT, WHICH SHALL RENDER THE  
11 DECISION IN SUCH PROCEEDING UNLESS THERE IS A PRIOR SETTLEMENT.  
12 THIS PART 4 SHALL NOT AFFECT ANY PROCEEDING, PROSECUTION, ACTION,  
13 SUIT, OR APPEAL COMMENCED IN THE JUDICIAL BRANCH BEFORE JANUARY  
14 1, 2015.

15 **SECTION 2. Act subject to petition - effective date -**  
16 **applicability.** (1) This act takes effect July 1, 2014; except that, if a  
17 referendum petition is filed pursuant to section 1 (3) of article V of the  
18 state constitution against this act or an item, section, or part of this act  
19 within the ninety-day period after final adjournment of the general  
20 assembly, then the act, item, section, or part will not take effect unless  
21 approved by the people at the general election to be held in November  
22 2014 and, in such case, will take effect on the date of the official  
23 declaration of the vote thereon by the governor.

24 (2) This act applies to:

25 (a) All proceedings commenced in the tax appeal court on or after  
26 January 1, 2015; and

27 (b) All administrative proceedings commenced prior to January

1 1, 2015, that have not been the subject of a final and irrevocable  
2 administrative action as of January 1, 2015, to the extent this act can be  
3 made applicable thereto.