

1 A bill to be entitled

2 An act relating to a tax tribunal; establishing the tax
3 tribunal in the executive branch of government; providing
4 for the number, appointment, salary, term of office, and
5 removal of judges; providing qualifications; prohibiting
6 certain other employment; authorizing judges to employ
7 certain personnel; designating such employees as state
8 employees within the Selected Exempt Service; providing
9 for the principal office and locations and facilities of
10 the tax tribunal; providing for appointment of a clerk and
11 court reporter; providing for expenditures of the tax
12 tribunal; providing for jurisdiction of the tax tribunal;
13 providing for informal resolution of tax disputes under
14 certain circumstances; providing requirements and
15 procedures; providing requirements and procedures for
16 pleadings before the tax tribunal; providing for fees for
17 filings and reports; providing requirements and procedures
18 for discovery and stipulations; providing requirements and
19 procedures for hearings; providing requirements for
20 decisions of the tax tribunal; establishing a small claims
21 division of the tax tribunal for certain purposes;
22 providing jurisdiction of the division; providing
23 requirements and procedures for matters brought before the
24 division; providing for appeals from decision of the tax
25 tribunal; providing for representation before the tax
26 tribunal; providing for publication of decisions;
27 providing requirements for service of process; authorizing
28 the tax tribunal to adopt rules; providing for application

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29 | in the event of conflict with certain other laws;
30 | providing for appointment of judges; providing for
31 | application to certain proceedings; providing an
32 | appropriation; requiring the chief judge of the tax
33 | tribunal to submit budget requests to the Legislature each
34 | year; providing an effective date.

35 |
36 | WHEREAS, the Legislature wishes to increase public
37 | confidence in the fairness of the state tax system, and

38 | WHEREAS, the Legislature finds that the business climate of
39 | the state will be enhanced by the stability and certainty which
40 | will be provided by an independent agency with tax expertise to
41 | resolve disputes between the Department of Revenue and
42 | taxpayers, prior to requiring the payment of the amounts in
43 | issue or the posting of a bond, but after the taxpayer has had a
44 | full opportunity to attempt settlement with the Department of
45 | Revenue based, among other things, on the hazards of litigation,
46 | and

47 | WHEREAS, the Legislature finds that establishing an
48 | independent tax tribunal within the executive branch of
49 | government will provide taxpayers with a means of resolving
50 | disputes that insures both the appearance and the reality of due
51 | process and fundamental fairness, and

52 | WHEREAS, it is the intent of the Legislature that tax
53 | tribunal process created by this act foster the settlement or
54 | other resolution of tax disputes to the extent possible and, in
55 | cases in which litigation is necessary, to provide the people of
56 | this state with a fair, independent, prepayment procedure to

57 determine a dispute with the Department of Revenue, NOW,
 58 THEREFORE,

60 Be It Enacted by the Legislature of the State of Florida:

62 Section 1. (1) TAX TRIBUNAL; ESTABLISHMENT.--

63 (a) A tax tribunal is hereby established in the executive
 64 branch of government.

65 (b) The tax tribunal shall be separate from and
 66 independent of the authority of the executive director and the
 67 Department of Revenue.

68 (c) The tax tribunal shall have a seal.

69 (d) The tax tribunal is created and shall exist on and
 70 after January 1, 2008. The judges of the tax tribunal may be
 71 appointed prior to such date and may take any action that is
 72 necessary to enable the judges to properly exercise the duties,
 73 functions, and powers given the tax tribunal under this section
 74 after that date.

75 (2) JUDGES; NUMBER; APPOINTMENT; TERM OF OFFICE;
 76 REMOVAL.--

77 (a) The tax tribunal shall consist of at least three full-
 78 time judges but no more than five full-time judges. Each judge
 79 shall exercise the powers of the tax tribunal. For purposes of
 80 this act, the term "judge" does not mean a judge of the judicial
 81 branch but is an officer equivalent to an administrative law
 82 judge for the tax purposes as provided in this act.

83 (b) The judges of the tax tribunal shall be appointed by
 84 the Governor, with the advice and consent of the Senate, for a

85 term of 4 years. The judges initially appointed shall be given
86 terms of different lengths not exceeding 4 years, so that all
87 judges' terms do not expire in the same year. A judge may be
88 reappointed to the tax tribunal after the expiration of the
89 judge's term.

90 (c) Each judge of the tax tribunal shall receive an annual
91 salary no less than that provided for circuit court judges,
92 which salary shall not be diminished during the judge's term of
93 appointment.

94 (d) Once appointed and confirmed, each judge shall
95 continue in office until his or her term expires and until a
96 successor has been appointed and confirmed.

97 (e) A vacancy on the tax tribunal occurring otherwise than
98 by the expiration of his or her term shall be filled for the
99 unexpired term in the same manner as an original appointment.

100 (f) The Governor shall designate one of the members as
101 chief judge. The chief judge shall be the executive of the tax
102 tribunal, shall have sole charge of the administration of the
103 tax tribunal, and shall apportion among the judges all causes,
104 matters, and proceedings coming before the tax tribunal.

105 (g) The Governor may remove a judge, after notice and an
106 opportunity to be heard, for neglect of duty, inability to
107 perform duties, malfeasance in office, or other good cause, with
108 the advice and consent of the Senate.

109 (h) Whenever the tax tribunal's trial docket or order of
110 business becomes congested or any judge of the tax tribunal is
111 absent, is disqualified, or for any other reason is unable to
112 perform his or her duties as judge, and it appears to the

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113 Governor that it is advisable that the services of an additional
114 judge or judges be provided, the Governor may appoint a judge,
115 or judges, pro tempore of the tax tribunal. Any person appointed
116 judge pro tempore of the tax tribunal shall have the
117 qualifications set forth in paragraphs (4) (a) and (b) and shall
118 be entitled to serve for a period of no longer than 6 months.

119 (i) A judge may disqualify himself or herself on his or
120 her own motion in any matter and may be disqualified for any of
121 the causes specified in the Florida Statutes governing the
122 disqualification of circuit judges.

123 (3) JUDGES; QUALIFICATIONS; PROHIBITION AGAINST OTHER
124 GAINFUL EMPLOYMENT.--

125 (a) Each judge of the tax tribunal shall be a citizen of
126 the United States and, during the period of his or her service,
127 a resident of this state. No person shall be appointed as a
128 judge unless at the time of appointment the individual has
129 substantial knowledge of the tax laws of this state and has been
130 a member of The Florida Bar for a period of at least 10 years.

131 (b) Before entering upon the duties of office, each judge
132 shall take and subscribe to an oath or affirmation that he or
133 she will faithfully discharge the duties of the office, and such
134 oath shall be filed in the office of the Secretary of State.

135 (c) Each judge shall devote his or her full time during
136 business hours to the duties of his or her office. A judge may
137 not engage in any other gainful employment or business or hold
138 another office or position of profit in an agency or political
139 subdivision of this state, any other state, or the United
140 States. Notwithstanding such limitation, a judge may own passive

141 interests in business entities and earn income from incidental
142 teaching or scholarly activities. Nothing in this paragraph
143 shall prohibit a judge from participation as a speaker in any
144 conference relating to state tax matters or issues.

145 (d) Each judge shall be entitled to hire a secretary and a
146 law clerk, whose salaries shall be equivalent, respectively, to
147 the salary of a senior secretary of a circuit judge in the
148 Circuit Court of the 2nd Judicial Circuit and the salary of a
149 law clerk for the 1st District Court of Appeals.

150 (e) All employees of the tax tribunal, except judges,
151 shall be deemed to be members of the Selected Exempt Service
152 class of state employees and shall be entitled to the benefits
153 awarded those employees.

154 (f) Tax tribunal judges shall have all the salary and
155 other benefits equal to those of circuit court judges.

156 (4) PRINCIPAL OFFICE; LOCATIONS; FACILITIES.--

157 (a) The tax tribunal's principal office shall be located
158 in Tallahassee, Florida.

159 (b) The tax tribunal shall conduct hearings at its
160 principal office and may also hold hearings at any place within
161 the state, with a view toward securing to taxpayers a reasonable
162 opportunity to appear before the tax tribunal with as little
163 inconvenience and expense as practicable.

164 (c) The principal office of the tax tribunal shall be
165 located in a building that is separate and apart from the
166 building in which the Department of Revenue is located. When the
167 tax tribunal holds hearings outside of its principal office, it

168 shall do so in a location that is physically separated from
 169 facilities regularly occupied by the Department of Revenue.

170 (d) The state, through the Department of Management
 171 Services and in cooperation with the various state agencies,
 172 shall provide hearing rooms, chambers, and offices for the tax
 173 tribunal at its principal office and shall arrange for hearing
 174 rooms, chambers, and offices or other appropriate facilities
 175 when hearings are held elsewhere.

176 (5) APPOINTMENT OF CLERK AND REPORTER; EXPENDITURES OF THE
 177 TAX TRIBUNAL.--

178 (a) The tax tribunal shall appoint a clerk and a reporter
 179 and may appoint such other employees and make such other
 180 expenditures, including expenditures for a library,
 181 publications, and equipment, as are necessary to permit it to
 182 efficiently execute its functions. The salaries of the clerk and
 183 reporter shall be equal to the salaries for similar officials of
 184 the Division of Administrative Hearings.

185 (b) The reporter shall be subject to the provisions of
 186 chapter 27, Florida Statutes, as if appointed by a judge of the
 187 circuit court, except where such provisions are in conflict with
 188 this section.

189 (c) No employee of the tax tribunal shall act as attorney,
 190 representative, or accountant for others in a matter involving
 191 any tax imposed or levied by this state.

192 (d) An employee of the tax tribunal may be removed by the
 193 chief judge, after notice and an opportunity to be heard, for
 194 neglect of duty, inability to perform duties, malfeasance in
 195 office, or for other good cause.

196 (e) In addition to the services of the official reporter,
 197 the tax tribunal may contract the reporting of its proceedings
 198 and, in the contract, fix the terms and conditions under which
 199 transcripts will be supplied by the contractor to the tax
 200 tribunal and to other persons and agencies.

201 (6) JURISDICTION.--

202 (a) Except as permitted by subsection (15), the tax
 203 tribunal shall be the sole, exclusive, and final authority for
 204 the hearing and determination of questions of law and fact
 205 arising under the tax laws of this state administered by the
 206 Department of Revenue as set forth in chapter 213, Florida
 207 Statutes, except for ad valorem taxes imposed by the counties.

208 (b) Except as permitted by subsection (15), no person
 209 shall contest any matter within the jurisdiction of the tax
 210 tribunal in any action, suit, or proceeding in the circuit court
 211 or any other court of the state. If a person attempts to do so,
 212 such action, suit, or proceeding shall be dismissed without
 213 prejudice. The improper commencement of any action, suit, or
 214 proceeding shall not extend beyond the time period for
 215 commencing a proceeding in the tax tribunal.

216 (c) Except in cases involving the denial of a claim for
 217 refund and except as provided in the Florida Statutes regarding
 218 jeopardy assessments, a taxpayer shall have the right to have
 219 his or her case heard by the tax tribunal prior to the payment
 220 of any amount asserted as due by the Department of Revenue and
 221 prior to the posting of any bond.

222 (d) If, with or after the filing of a timely petition, a
 223 taxpayer pays all or part of the tax or other amount in issue

224 before the tax tribunal has rendered a decision, the tax
 225 tribunal shall treat the taxpayer's petition as a protest of a
 226 denial of a claim for refund of the amount paid.

227 (e) The tax tribunal shall decide questions regarding the
 228 constitutionality of the application of law to the taxpayer and
 229 the constitutionality of regulations adopted by the Department
 230 of Revenue but shall not have the power to declare a law
 231 unconstitutional on its face. A taxpayer desiring to challenge
 232 the constitutionality of a law on its face may, at the
 233 taxpayer's election, do so by one of the following methods:

234 1. Commence a declaratory action in a circuit court with
 235 respect to the constitutional challenge and file a petition in
 236 the tax tribunal with respect to the remainder of the matter,
 237 which proceeding shall be stayed by the tax tribunal pending
 238 final resolution of the constitutional challenge;

239 2. File a petition with the tax tribunal with respect to
 240 issues other than the constitutional challenge, in which the
 241 taxpayer preserves the constitutional challenge until the entire
 242 matter, including the constitutional challenge and the facts
 243 related to the constitutional challenge, is presented to the
 244 appellate court; or

245 3. Bifurcate the matter by commencing a declaratory action
 246 in a circuit court with respect to the facial constitutional
 247 challenge and by filing a petition with the tax tribunal with
 248 respect to the remainder of the issues.

249 (7) OPPORTUNITY TO RESOLVE TAX DISPUTES INFORMALLY PRIOR
 250 TO COMMENCING A PROCEEDING IN THE TAX TRIBUNAL.--

251 (a) Before the Department of Revenue finalizes a
 252 determination that triggers a taxpayer's right to commence a
 253 proceeding in the tax tribunal under subsection (9), the
 254 Department of Revenue shall provide to the taxpayer, pursuant to
 255 this section and to chapter 213, Florida Statutes, a review of
 256 the audit or collection function's proposed determination by an
 257 administrative appeals function.

258 (b) Existing rules and procedures of the Department of
 259 Revenue shall be amended to provide an administrative appeals
 260 function that provides for a program of holding conferences and
 261 negotiating settlements that is designed to resolve the vast
 262 majority of tax controversies without litigation on a basis that
 263 is fair and impartial to the state and the taxpayer and that
 264 enhances voluntary compliance and public confidence in the
 265 integrity and efficiency of the Department of Revenue. The
 266 administrative appeals function to be maintained or established
 267 by the Department of Revenue shall have all of the following
 268 characteristics:

269 1. Appeals personnel shall exercise independent judgment
 270 with the objective of settling as many disputed issues as
 271 possible without litigation.

272 2. Appeals personnel shall have expertise in and extensive
 273 experience with the state's tax laws.

274 3. Appeals personnel shall concede or settle individual
 275 issues based on the facts and the law, including the hazards of
 276 litigation, and an issue specifically conceded or settled by
 277 appeals personnel shall not thereafter be contested by the
 278 Department of Revenue.

279 4. Appeals conferences shall be conducted in an informal
280 manner.

281 5. Appeals conferences shall be conducted, at the
282 taxpayer's option, by correspondence, by telephone, or in
283 person.

284 6. Appeals personnel shall consider arguments as to the
285 applicability of the tax laws, settlement proposals and
286 counterproposals, and new evidence in support of the taxpayer's
287 position provided, if the new evidence is substantial and should
288 have been presented at the time of audit, appeals personnel may
289 request the audit function to examine the evidence and to make a
290 recommendation as to the effect of the evidence on the related
291 issue.

292 7. The taxpayer shall have the right to bring witnesses to
293 an in-person conference.

294 8. The taxpayer may participate in appeals conferences
295 without representation; may be represented by an officer,
296 employee, partner, or member of the taxpayer; or may be
297 represented by a third-party representative.

298 9. Appeals personnel shall not engage in ex parte
299 communications with any Department of Revenue employees to the
300 extent that such communications may appear to the taxpayer to
301 compromise the independence of the appeals function. Appeals
302 personnel may not be involved in the development of any
303 Department of Revenue policy or rule. All state employees
304 suspected of such ex parte communications shall be immediately
305 placed on unpaid administrative leave, and such suspicion shall
306 be investigated by the Department of Law Enforcement. If the

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307 suspicion is found to be valid and the state employee is
308 accused, the employment of the state employee shall be
309 immediately terminated and the employee arrested and charged
310 with a first degree misdemeanor.

311 10. In all cases, appeals personnel shall allow the
312 taxpayer to participate in any communications with Department of
313 Revenue employees, and a record shall be kept of any such
314 communications which shall be deemed subject to the provisions
315 of chapter 119, Florida Statutes.

316 11. Appeals decisions and agreements shall not be
317 considered as precedent.

318 12. A taxpayer's decision to forego appeals consideration
319 shall not constitute a failure to exhaust administrative
320 remedies, and a taxpayer's decision to request appeals
321 consideration with respect to a determination shall not preclude
322 the taxpayer from commencing a proceeding before the tax
323 tribunal with respect to any issue not resolved by settlement or
324 concession.

325 (c) The Department of Revenue shall adopt emergency and
326 other rules governing the operation of the administrative
327 appeals function, including, without limitation, a rule allowing
328 the Department of Revenue to finalize its determination if the
329 taxpayer fails to timely request or pursue appeals consideration
330 or a rule allowing the Department of Revenue to publicly
331 designate specific issues that appeals personnel may not
332 compromise. Such rules shall be adopted not less than 180 days
333 after the effective date of this act.

334 (8) PLEADINGS.--

335 (a) A taxpayer may commence a proceeding before the tax
336 tribunal by filing a petition protesting the Department of
337 Revenue's determination imposing a liability for tax, penalty,
338 or interest; denying a refund or credit application; canceling,
339 revoking, suspending, or denying an application for a license,
340 permit, or registration; or taking any other action that gives a
341 person the right to a hearing under the law. The petition shall
342 be filed with the tax tribunal no later than 90 days after
343 receipt of the Department of Revenue's written notice of such
344 determination. For purposes of this section, the term "taxpayer"
345 includes a person who is challenging the state's jurisdiction
346 over the person and who has standing to challenge the validity
347 or applicability of the tax.

348 (b) The Department of Revenue shall file its answer with
349 the tax tribunal no later than 30 days after receiving the tax
350 tribunal's notification that the taxpayer has filed a petition
351 in proper form. Upon written request, the tax tribunal may grant
352 up to 15 additional days to file an answer, and only one such
353 request shall be permitted. The Department of Revenue shall
354 serve a copy of its answer on the taxpayer's representative or,
355 if the taxpayer is not represented, on the taxpayer and shall
356 file proof of such service with the answer. Material facts
357 alleged in the petition, if not expressly admitted or denied in
358 the answer, shall be deemed admitted. If the Department of
359 Revenue fails to answer within the prescribed time, all material
360 facts alleged in the petition shall be deemed admitted.

361 (c) The taxpayer may file a reply with the tax tribunal
362 within 30 days after receiving the answer. The taxpayer shall

363 serve a copy of the reply on the authorized representative of
364 the Department of Revenue and shall file proof of such service
365 with the reply. If the taxpayer fails to reply within the
366 prescribed time, all material facts alleged in the answer shall
367 be deemed denied. When a reply has been filed or, if no reply
368 has been filed, 30 days after the filing of the answer, the
369 controversy shall be deemed at issue and shall be scheduled for
370 hearing.

371 (d) Either party may amend a pleading once without leave
372 at any time before the period for responding to the pleading
373 expires. After such time, a pleading may be amended only with
374 the written consent of the adverse party or with the permission
375 of the tax tribunal. The tax tribunal shall freely grant consent
376 to amend a pleading upon such terms as may be just. Except as
377 otherwise ordered by the tax tribunal, there shall be an answer
378 or reply to an amended pleading if an answer or reply is
379 required to the pleading being amended. Filing of the answer or,
380 if the answer has already been filed, the amended answer shall
381 be made no later than 75 days after filing of the amended
382 petition. Filing of the reply or, if the reply has already been
383 filed, the amended reply shall be made within 30 days after
384 filing of the amended answer. The taxpayer may not amend a
385 petition after expiration of the time for filing a petition if
386 such amendment would have the effect of conferring jurisdiction
387 on the tax tribunal over a matter that would otherwise not come
388 within its jurisdiction. An amendment of a pleading shall relate
389 back to the time of filing of the original pleading, unless the

390 tax tribunal orders otherwise either on motion of a party or on
391 the tax tribunal's own initiative.

392 (9) FEES.--

393 (a) Upon filing a petition, the taxpayer shall pay to the
394 clerk a fee in an amount equal to the filing fee for a civil
395 action in the Circuit Court of the 2nd Judicial Circuit of
396 Florida.

397 (b) The tax tribunal may fix a fee, not in excess of the
398 fees charged and collected by the clerks of the circuit courts,
399 for comparing, or for preparing and comparing, a transcript of
400 the record, or for copying any record, entry, or other paper and
401 the comparison and certification thereof.

402 (10) DISCOVERY AND STIPULATION.--

403 (a) The parties to a proceeding shall make every effort to
404 achieve discovery by informal consultation or communication
405 before invoking the discovery procedures authorized by this
406 section.

407 (b) The parties to a proceeding shall stipulate all
408 relevant and nonprivileged matters to the fullest extent to
409 which complete or qualified agreement can or fairly should be
410 reached. The existence or use of the discovery mechanisms
411 authorized by this section shall not excuse failure to comply
412 with this provision.

413 (c) Subject to reasonable limitations prescribed by the
414 tax tribunal, a party may obtain discovery by written
415 interrogatories; requests for the production of returns, books,
416 papers, documents, correspondence, or other evidence;
417 depositions of parties, nonparty witnesses, and experts; and

418 requests for admissions. The tax tribunal may provide for other
 419 forms of discovery.

420 (d) A judge or the clerk of the tax tribunal, upon the
 421 request of any party to the proceeding, shall issue subpoenas
 422 requiring the attendance of witnesses and giving of testimony
 423 and subpoenas duces tecum requiring the production of evidence
 424 or things.

425 (e) Any employee of the tax tribunal designated in writing
 426 for the purpose by the chief judge may administer oaths.

427 (f) Any witness subpoenaed or whose deposition is taken
 428 shall receive the same fees and mileage as a witness in a
 429 circuit court of this state unless that witness is an employee
 430 of the Department of Revenue.

431 (g) The tax tribunal may enforce its orders on discovery
 432 and other procedural issues, among other means, by deciding
 433 issues wholly or partly against the offending party.

434 (11) HEARINGS.--

435 (a) Proceedings before the tax tribunal shall be tried de
 436 novo and, to the extent permissible under the constitution,
 437 without a jury.

438 (b) Except as set forth in this section, the tax tribunal
 439 shall take evidence, conduct hearings, and issue final and
 440 interlocutory decisions.

441 (c) Hearings shall be open to the public and shall be
 442 conducted in accordance with such rules of practice and
 443 procedure as the tax tribunal may adopt. Notwithstanding such
 444 requirements, upon motion of either party, the tax tribunal may
 445 issue a protective order or an order calling for proceeding of

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446 the hearing to be held in camera, closing part or all of the
447 hearing to the public if the party shows good cause to protect
448 specified information from being disclosed to the public.

449 (d) The tax tribunal shall not be bound by the rules of
450 evidence applicable to civil cases in the circuit courts of this
451 state. The tax tribunal shall admit relevant evidence, including
452 hearsay, if it is probative of a material fact in controversy.
453 The tax tribunal shall exclude irrelevant and unduly repetitious
454 evidence. Notwithstanding such requirements, the rules of
455 privilege recognized by law shall apply.

456 (e) Testimony may be given only on oath or affirmation.

457 (f) The petition and other pleadings in the proceeding
458 shall be deemed to conform to the proof presented at the
459 hearing, unless a party satisfies the tax tribunal that
460 presentation of the evidence would unfairly prejudice the party
461 in maintaining its position on the merits or unless deeming the
462 taxpayer's petition to conform to the proof would confer
463 jurisdiction on the tax tribunal over a matter that would not
464 otherwise come within its jurisdiction.

465 (g) In the case of an issue of fact, the taxpayer shall
466 have the burden of persuasion by a preponderance of the evidence
467 in the record, except that the Department of Revenue shall have
468 the burden of persuasion in the case of an assertion of fraud
469 and in other cases provided by law.

470 (h) Proceedings before the tax tribunal, except those
471 before the small claims division as provided in subsection (14),
472 shall be officially reported. The state shall pay the expense of
473 reporting from the budget appropriation for the tax tribunal.

474 (12) DECISIONS.--

475 (a) The tax tribunal shall render its decision in writing,
476 including a concise statement of the facts found and the
477 conclusions of law reached. The tax tribunal's decision shall,
478 subject to law, grant such relief, invoke such remedies, and
479 issue such orders as it deems appropriate to carry out its
480 decision.

481 (b) The tax tribunal shall render its decision no later
482 than 6 months after submission of the last brief filed
483 subsequent to completion of the hearing or, if briefs are not
484 submitted, no later than 6 months after completion of the
485 hearing. The tax tribunal may extend the 6-month period, for
486 good cause, up to 3 additional months.

487 (c) If the tax tribunal fails to render a decision within
488 the prescribed period, either party may institute a proceeding
489 in circuit court to compel the issuance of such decision.

490 (d) The tax tribunal's decision shall finally decide the
491 matters in controversy, unless any party to the matter timely
492 appeals the decision as provided in subsection (15).

493 (e) The tax tribunal's decision shall have the same effect
494 and shall be enforced in the same manner, as a judgment of a
495 circuit court.

496 (f) The tax tribunal's interpretation of a provision of
497 tax law subject to contest in one case shall be followed by the
498 tax tribunal in subsequent cases involving the provision of tax
499 law, and its application of a provision of law to the facts of
500 one case shall be followed by the tax tribunal in subsequent
501 cases involving similar facts, unless the tax tribunal's

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502 interpretation or application conflicts with that of an
503 appellate court or the tax tribunal provides satisfactory
504 reasons for reversing prior precedent.

505 (13) SMALL CLAIMS DIVISION; ESTABLISHMENT; JURISDICTION.--

506 (a) There is hereby established a Small Claims Division of
507 the tax tribunal.

508 (b) The judges of the tax tribunal shall sit as the judges
509 of the Small Claims Division.

510 (c) If a taxpayer timely elects, the Small Claims Division
511 shall have jurisdiction over any proceeding with respect to any
512 calendar year for which the net amount of the tax deficiencies
513 and claimed refunds in controversy does not exceed \$25,000,
514 exclusive of interest and penalties.

515 (d) A taxpayer may elect to proceed in the Small Claims
516 Division by filing a petition in the form prescribed by the tax
517 tribunal no later than 90 days after the taxpayer's receipt of
518 written notice of the determination that is the subject of the
519 petition. A taxpayer may not revoke an election to proceed in
520 the Small Claims Division.

521 (e) No later than 30 days after receipt of notice that the
522 taxpayer has filed a petition in proper form, or at such other
523 time as the tax tribunal may order, the Department of Revenue
524 shall file with the tax tribunal an answer similar to that
525 required by subsection (9).

526 (f) At any time prior to entry of judgment, a taxpayer may
527 withdraw a proceeding in the Small Claims Division by notifying
528 the clerk of the tax tribunal in writing. Such withdrawal shall

529 be with prejudice and shall not have the effect of revoking the
530 election made in accordance with paragraph (d).

531 (g) Hearings in the Small Claims Division shall be
532 informal and the judge may receive such evidence as the judge
533 deems appropriate for determination of the case. Testimony shall
534 be given under oath or affirmation.

535 (h) A judgment of the Small Claims Division shall be
536 conclusive upon all parties and may not be appealed. A judgment
537 of the Small Claims Division shall not be considered as
538 precedent in any other case, hearing, or proceeding.

539 (i) Subsections (1)-(13) and (15)-(19) shall apply to
540 proceedings in the Small Claims Division unless expressly
541 inapplicable thereto or inconsistent with the provisions of this
542 section.

543 (14) APPEALS.--

544 (a) A taxpayer or the Department of Revenue shall be
545 entitled to judicial review of a final decision of the tax
546 tribunal, except a final decision of the Small Claims Division,
547 in accordance with the procedure for appeal from a decision of a
548 circuit court, but without regard to the sum involved. The
549 taxpayer or the Department of Revenue may obtain judicial review
550 of an interlocutory decision of the tax tribunal under the same
551 conditions and in the same manner as an interlocutory decision
552 of a circuit court.

553 (b) The record on judicial review shall include the
554 decision of the tax tribunal, the stenographic transcript of the
555 hearing before the tax tribunal, the pleadings, and all exhibits
556 and documents admitted into evidence.

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557 (15) REPRESENTATION.--

558 (a) Appearances in proceedings conducted by the tax
559 tribunal may be by the taxpayer, by an attorney admitted to
560 practice of law in this state, including an attorney who is a
561 partner or member of, or is employed by, an accounting or other
562 professional services firm, by an accountant licensed in this
563 state, or by an enrolled agent authorized to practice before the
564 Internal Revenue Service. In addition, the tax tribunal may
565 adopt rules permitting a taxpayer to be represented by an
566 officer, employee, partner, or member.

567 (b) The Department of Revenue shall be represented by an
568 attorney from the Department of Legal Affairs.

569 (16) PUBLICATION OF DECISIONS.--Except for decisions
570 issued by the Small Claims Division, the tax tribunal shall
571 index and publish its final decisions in such print or
572 electronic form as it deems best adapted for public convenience.
573 Such publications shall be made permanently available and
574 constitute the official records of the tax tribunal.

575 (17) SERVICE OF PROCESS.--

576 (a) Mailing by first class or certified or registered
577 mail, postage prepaid, to the address of the taxpayer given on
578 the taxpayer's petition, or to the address of the taxpayer's
579 representative of record, if any, or to the usual place of
580 business of the Department of Revenue, shall constitute personal
581 service on the other party. The tax tribunal may by rule
582 prescribe that notice by other means shall constitute personal
583 service and may in a particular case order that notice be given
584 to additional persons or by other means.

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585 (b) Mailing by registered or certified mail and delivery
586 by a private delivery service approved by the Internal Revenue
587 Service in accordance with s. 7502(f) of the Internal Revenue
588 Code of 1986, as amended, shall be deemed to have occurred,
589 respectively, on the date of mailing or the date of submission
590 to the private delivery service.

591 (18) RULES AND FORMS.--The tax tribunal may adopt all
592 reasonable rules and forms, pursuant to ss. 120.536(1) and
593 120.54, Florida Statutes, as may be necessary or appropriate to
594 carry out the intent and purposes of this section.

595 (19) APPLICATION OF OTHER LAWS.--To the extent that
596 provisions of chapters 72, 120, and 213, Florida Statutes,
597 conflict with any provision of this section, the provisions of
598 this section shall control.

599 Section 2. The first appointment of judges of the tax
600 tribunal under this act shall be made prior to January 1, 2008.
601 This act shall apply to all proceedings commenced before the tax
602 tribunal on or after such date and all administrative
603 proceedings commenced prior to such date that have not been the
604 subject of a final and irrevocable administrative action as of
605 such effective date, to the extent this act can be made
606 applicable to such proceedings. Any administrative proceeding in
607 which a hearing has commenced prior to the effective date of
608 this act shall be transferred to the tax tribunal, which shall
609 render the decision in such proceeding unless there is a prior
610 settlement. This act shall not affect any proceeding,
611 prosecution, action, suit, or appeal commenced in the judicial
612 branch the effective date of this act.

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613 Section 3. The sum of \$2.5 million is appropriated from
614 the General Revenue Fund for the operation, expenses, and
615 salaries required for the implementation of this act for the
616 2007-2008 fiscal year. The chief judge of the tax tribunal shall
617 submit a budget request to the President of the Senate and the
618 Speaker of the House of Representatives for all subsequent
619 fiscal years in the same manner as any other agency of the
620 state.

621 Section 4. This act shall take effect July 1, 2007.