



Ohio Legislative Service Commission

Bill Analysis

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H.B. 505

129th General Assembly
(As Introduced)

Rep. Amstutz

BILL SUMMARY

- Creates a small claims division of the Ohio Board of Tax Appeals (BTA) with the authority to hear certain appeals involving nonbusiness real property or where the amount in controversy is less than \$10,000 and all parties give written consent.
- Allows for parties to file notice of appeal to the BTA by fax or e-mail.
- Requires the BTA to establish a case management schedule for appeals.
- Authorizes the Tax Commissioner, upon the written consent of the parties, to review and issue a final determination for cases involving residential property tax values that have been appealed from a board of revision and are docketed with the Board of Tax Appeals.

CONTENT AND OPERATION

Small claims division

The Board of Tax Appeals (BTA), as established in existing law, is a separate, quasi-judicial, administrative agency that acts as the state's administrative tax court. The BTA consists of three members appointed by the Governor who provide taxpayers, corporate entities, and government entities with a forum in which to resolve tax disputes. The BTA resolves appeals from decisions and orders of the Tax Commissioner, the Director of Development, the Director of Job and Family Services, county boards of revision, county budget commissions, and municipal boards of tax appeal. Decisions of the BTA are recorded in a journal maintained by the secretary of the BTA and can be appealed to district courts of appeals or the Supreme Court of Ohio.

The bill creates a small claims division of the BTA. The small claims division would have the authority to hear appeals from county boards of revision involving nonbusiness real property, municipal income tax appeals from municipal boards of appeal where the amount in controversy is less than \$10,000, and appeals from final determinations of the Tax Commissioner, the Director of Development, and the Director of Job and Family Services if the amount in controversy is less than \$10,000. The BTA has authority to modify, by rule, this jurisdictional dollar threshold. Written consent of all the involved parties is required in order for any appeal to be heard by the small claims division.

Under the bill, appeals within the above jurisdictional limits may be filed in the small claims division at the election of the appellant or reassigned there by the BTA. The BTA must reassign an appeal docketed in the small claims division to the regular docket in all of the following circumstances: (1) a party to the appeal requests reassignment, (2) the appeal presents a constitutional issue, (3) the appeal presents an issue of great public or general interest, or (4) the BTA determines that the appeal is outside the jurisdiction of the small claims division.

The operation and procedures of the small claims division are intended to be informal and will be prescribed by rules adopted by the BTA. Subject to these rules, it is permissible for appeals assigned to the small claims division to be heard over the telephone. The bill provides that parties are permitted, but not required, to have an attorney appear on their behalf. Entities that are not natural persons are permitted to participate in appeals before the small claims division as a taxpayer or claimant. These entities may appear through an attorney, a bona fide officer, partner, member, trustee, or salaried employee. Unless the entity is represented by an attorney, however, its representative may not engage in cross-examination, argument, or other acts of advocacy.

Decisions and orders of the small claims division must be recorded in the journal maintained by the secretary of the BTA. The journal is held open for public inspection. Unlike the BTA decisions, however, decisions and orders of the small claims division do not have precedential value for any other case and are not subject to appeal.¹

Facsimile and e-mail filing to the Board

Under current law, an appeal from a decision of the county board of revision must be filed by sending a notice of appeal to the county board of revision and the BTA within 30 days after notice of the decision is mailed. An appeal from a decision of a municipal board of appeal must be filed by sending a notice of appeal to the municipal

¹ R.C. 5703.021, 5717.01, 5717.011, and 5717.02.

board of appeal, the opposing party, and either the BTA or the court of common pleas (depending on where the taxpayer or tax administrator elects to seek appellate review) within 60 days after the day the appellant receives notice of the decision. An appeal from a final determination or action of the Tax Commissioner, a county auditor, the Director of Development, or the Director of Job and Family Services must be filed by sending a notice of appeal to the BTA and the official whose final determination or action is the subject of the appeal within 60 days after service of the notice of the final determination or action is completed.

In all such appeals, the current law permits the appellant to file the notice of appeal in person, by certified mail, by express mail, or by authorized delivery service. If the notice is filed in person, the date of delivery is treated as the date of filing. If notice is filed by certified mail or express mail, the date of the United States postmark on the sender's receipt is treated as the date of filing. If notice is filed by authorized delivery service, the date of receipt recorded by the delivery service is treated as the date of filing.

The bill allows for parties, in addition to the methods that already exist, to file a notice of appeal to the Board of Tax Appeals by fax or e-mail. When these methods are used, the date of transmission is treated as the date of filing.²

Case management schedule

The bill creates a new requirement that the BTA institute procedures to control and manage appeals of decisions of the Tax Commissioner, county auditors, the Director of Development, and the Director of Job and Family Services. These procedures must include the establishment of a case management schedule by the attorney examiners of the BTA in consultation with the parties and their counsel. Current law does not explicitly require the BTA to establish a case management schedule.³

Tax Commissioner authority to expedite residential property value appeals

Existing law authorizes the appeal of decisions of any county board of revision to the Board of Tax Appeals (BTA). The bill authorizes the Tax Commissioner, upon the written consent of the parties, to review and issue a final determination for such appeals involving residential property tax values. The Commissioner is charged with establishing a practice and procedure for processing the appeals. Requests by parties

² R.C. 5717.01, 5707.011, and 5717.02.

³ R.C. 5717.02.

for transfer of a case to the Tax Commissioner must be made within two years of the effective date of the provision.⁴

HISTORY

ACTION	DATE
Introduced	04-04-12

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⁴ Section 3.

