



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB3263

by Rep. Michael J. Zalewski

SYNOPSIS AS INTRODUCED:

35 ILCS 1010/1-45
35 ILCS 1010/1-50
35 ILCS 1010/1-51 new
35 ILCS 1010/1-55
35 ILCS 1010/1-63

Amends the Illinois Independent Tax Tribunal Act of 2012. Expands the jurisdiction of the Tribunal to include the County Motor Fuel Tax Law, the Live Adult Entertainment Facility Surcharge Act, the Vehicle Use Tax, the Metropolitan Pier & Exposition Authority Food and Beverage Tax, the Tire User Fee, the Chicago Soft Drink Tax, the Drycleaning Solvent Tax, the Energy Assistance Act of 1989, and the Qualified Solid Waste Fee. Provides a transition schedule for the expansion of jurisdiction. Provides for additional procedures, including automatic remand, and a reduced filing fee for certain cases. Effective immediately.

LRB100 10460 HLH 20673 b

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Independent Tax Tribunal Act of
5 2012 is amended by changing Sections 1-45, 1-50, 1-55, and 1-63
6 and by adding Section 1-51 as follows:

7 (35 ILCS 1010/1-45)

8 Sec. 1-45. Jurisdiction of the Tax Tribunal.

9 (a) Except as provided by the Constitution of the United
10 States, the Constitution of the State of Illinois, or any
11 statutes of this State, including, but not limited to, the
12 State Officers and Employees Money Disposition Act, the Tax
13 Tribunal shall have original jurisdiction over all
14 determinations of the Department reflected on a Notice of
15 Deficiency, Notice of Tax Liability, Notice of Claim Denial, or
16 Notice of Penalty Liability issued under the Illinois Income
17 Tax Act, the Use Tax Act, the Service Use Tax Act, the Service
18 Occupation Tax Act, the Retailers' Occupation Tax Act, the
19 Cigarette Tax Act, the Cigarette Use Tax Act, the Tobacco
20 Products Tax Act of 1995, the Hotel Operators' Occupation Tax
21 Act, the Motor Fuel Tax Law, the Automobile Renting Occupation
22 and Use Tax Act, the Coin-Operated Amusement Device and
23 Redemption Machine Tax Act, the Gas Revenue Tax Act, the Water

1 Company Invested Capital Tax Act, the Telecommunications
2 Excise Tax Act, the Telecommunications Infrastructure
3 Maintenance Fee Act, the Public Utilities Revenue Act, the
4 Electricity Excise Tax Law, the Aircraft Use Tax Law, the
5 Watercraft Use Tax Law, the Gas Use Tax Law, the County Motor
6 Fuel Tax Law, the Live Adult Entertainment Facility Surcharge
7 Act, the Vehicle Use Tax, the Metropolitan Pier and Exposition
8 Authority Food and Beverage Tax, the Tire User Fee, the Chicago
9 Soft Drink Tax, the Drycleaning Solvent Tax, the Energy
10 Assistance Act of 1989, the Qualified Solid Waste Fee, or the
11 Uniform Penalty and Interest Act. Jurisdiction of the Tax
12 Tribunal is limited to Notices of Tax Liability, Notices of
13 Deficiency, Notices of Claim Denial, and Notices of Penalty
14 Liability where for periods prior to September 1, 2017, the
15 amount at issue in a notice, or the aggregate amount at issue
16 in multiple notices issued for the same tax year or audit
17 period, exceeds \$15,000, exclusive of penalties and interest.
18 In notices solely asserting either an interest or penalty
19 assessment, or both, the Tax Tribunal shall have jurisdiction
20 over cases where the combined total of all penalties or
21 interest assessed exceeds \$15,000. Beginning with notices and
22 decisions issued on and after September 1, 2017, the Tax
23 Tribunal shall have jurisdiction of all Notices of Tax
24 Liability, Notices of Deficiency, Notices of Claim Denial, and
25 Notices of Penalty Liability, all notices solely asserting
26 either an interest or penalty assessment, and any decisions

1 relating to the issuance or denial of an exemption ruling for
2 any entity claiming a non-homestead exemption from any tax
3 imposed under the Property Tax Code or any exemption from a
4 State tax administered by the Department.

5 (b) Except as otherwise permitted by this Act and by the
6 Constitution of the State of Illinois or otherwise by State
7 law, including, but not limited to, the State Officers and
8 Employees Money Disposition Act, no person shall contest any
9 matter within the jurisdiction of the Tax Tribunal in any
10 action, suit, or proceeding in the circuit court or any other
11 court of the State. If a person attempts to do so, then such
12 action, suit, or proceeding shall be dismissed without
13 prejudice. The improper commencement of any action, suit, or
14 proceeding does not extend the time period for commencing a
15 proceeding in the Tax Tribunal.

16 (c) The Tax Tribunal may require the taxpayer to post a
17 bond equal to 25% of the liability at issue (1) upon motion of
18 the Department and a showing that (A) the taxpayer's action is
19 frivolous or legally insufficient or (B) the taxpayer is acting
20 primarily for the purpose of delaying the collection of tax or
21 prejudicing the ability ultimately to collect the tax, or (2)
22 if, at any time during the proceedings, it is determined by the
23 Tax Tribunal that the taxpayer is not pursuing the resolution
24 of the case with due diligence. If the Tax Tribunal finds in a
25 particular case that the taxpayer cannot procure and furnish a
26 satisfactory surety or sureties for the kind of bond required

1 herein, the Tax Tribunal may relieve the taxpayer of the
2 obligation of filing such bond, if, upon the timely application
3 for a lien in lieu thereof and accompanying proof therein
4 submitted, the Tax Tribunal is satisfied that any such lien
5 imposed would operate to secure the assessment in the manner
6 and to the degree as would a bond. The Tax Tribunal shall adopt
7 rules for the procedures to be used in securing a bond or lien
8 under this Section.

9 (d) If, with or after the filing of a timely petition, the
10 taxpayer pays all or part of the tax or other amount in issue
11 before the Tax Tribunal has rendered a decision, the Tax
12 Tribunal shall treat the taxpayer's petition as a protest of a
13 denial of claim for refund of the amount so paid upon a written
14 motion filed by the taxpayer.

15 (e) The Tax Tribunal shall not have jurisdiction to review:

16 (1) any assessment made under the Property Tax Code;

17 (2) any decisions issued prior to September 1, 2017
18 relating to the issuance or denial of an exemption ruling
19 for any entity claiming exemption from any tax imposed
20 under the Property Tax Code or any State tax administered
21 by the Department;

22 (3) a notice of proposed tax liability, notice of
23 proposed deficiency, or any other notice of proposed
24 assessment or notice of intent to take some action;

25 (4) any action or determination of the Department
26 regarding tax liabilities that have become finalized by

1 law, including but not limited to the issuance of liens,
2 levies, and revocations, suspensions, or denials of
3 licenses or certificates of registration or any other
4 collection activities;

5 (5) any proceedings of the Department's informal
6 administrative appeals function; and

7 (6) any challenge to an administrative subpoena issued
8 by the Department.

9 (f) The Tax Tribunal shall decide questions regarding the
10 constitutionality of statutes and rules adopted by the
11 Department as applied to the taxpayer, but shall not have the
12 power to declare a statute or rule unconstitutional or
13 otherwise invalid on its face. A taxpayer challenging the
14 constitutionality of a statute or rule on its face may present
15 such challenge to the Tax Tribunal for the sole purpose of
16 making a record for review by the Illinois Appellate Court.
17 Failure to raise a constitutional issue regarding the
18 application of a statute or regulations to the taxpayer shall
19 not preclude the taxpayer or the Department from raising those
20 issues at the appellate court level.

21 (Source: P.A. 97-1129, eff. 8-28-12; 98-463, eff. 8-16-13.)

22 (35 ILCS 1010/1-50)

23 Sec. 1-50. Pleadings.

24 (a) A taxpayer may commence a proceeding in the Tax
25 Tribunal by filing a petition protesting the Department's

1 determination imposing a liability for tax, penalty, or
2 interest, or denying a claim for refund or credit application.
3 The petition shall be filed within the time permitted by
4 statute for filing a protest.

5 (b) The Department shall file its answer in the Tax
6 Tribunal no later than 30 days after its receipt of the Tax
7 Tribunal's notification that the taxpayer has filed a petition
8 in the proper form or within such additional time as the Tax
9 Tribunal may specify. The Department shall serve a copy of its
10 answer on the taxpayer's representative or, if the taxpayer is
11 not represented, on the taxpayer, and shall file proof of such
12 service with the answer. Material facts alleged in the
13 petition, if not expressly admitted or denied in the answer,
14 shall be deemed admitted.

15 (c) Either party may amend a pleading once without leave at
16 any time before the period for responding to it expires. After
17 such time, a pleading may be amended only with the written
18 consent of the adverse party or with the permission of the Tax
19 Tribunal. The Tax Tribunal shall freely grant consent to amend
20 upon such terms as may be just. Except as otherwise ordered by
21 the Tax Tribunal, there shall be an answer to an amended
22 pleading if an answer is required to the pleading being
23 amended. Filing of the answer, or, if the answer has already
24 been filed, the amended answer shall be made no later than 30
25 days after the filing of the amended petition. The taxpayer may
26 not amend a petition after expiration of the time for filing a

1 petition, if such amendment would have the effect of conferring
2 jurisdiction on the Tax Tribunal over a matter that would
3 otherwise not come within its jurisdiction. An amendment of a
4 pleading shall relate back to the time of filing of the
5 original pleading only as prescribed by Section 2-616 of the
6 Code of Civil Procedure.

7 (d) This Section applies to all cases in which the amount
8 at issue in a notice, or the aggregate amount at issue in
9 multiple notices issued for the same tax year or audit period,
10 exceeds \$15,000 exclusive of penalties and interest, and in all
11 cases involving notices solely asserting an interest or penalty
12 assessment, or both, where the combined total of all penalties
13 or interest assessed exceeds \$15,000.

14 (Source: P.A. 97-1129, eff. 8-28-12.)

15 (35 ILCS 1010/1-51 new)

16 Sec. 1-51. Pleadings in small dollar cases.

17 (a) This Section applies to all cases in which the amount
18 at issue in a notice, or the aggregate amount at issue in
19 multiple notices issued for the same tax year or audit period,
20 does not exceed \$15,000 exclusive of penalties and interest, in
21 all cases involving notices solely asserting an interest or
22 penalty assessment or both the combined total of all penalties
23 or interest assessed does not exceed \$15,000, and any decisions
24 relating to the issuance or denial of an exemption ruling for
25 any entity claiming a non-homestead exemption from any tax

1 imposed under the Property Tax Code or any exemption from a
2 State tax administered by the Department.

3 (b) In all matters governed by this Section, protests, in
4 order to be deemed sufficient as a matter of law, must include
5 the following at a minimum:

6 (1) the taxpayer's identification number, i.e., FEIN,
7 or individual or business account number;

8 (2) the date of issuance of the notice which is being
9 contested;

10 (3) the tax year or years and, if applicable, the
11 filing period and audit period involved;

12 (4) to the extent possible, the factual and legal
13 grounds upon which the objections to the notices are based;

14 (5) A certification that the facts stated are true,
15 correct, and complete to the best of the affiant's
16 knowledge and belief.

17 (35 ILCS 1010/1-55)

18 Sec. 1-55. Fees.

19 (a) The Tax Tribunal shall impose a fee of

20 (1) \$500 for the filing of petitions under Section
21 1-50; or-

22 (2) a fee of \$100 for the filing of petitions under
23 Section 1-51 in which the amount at issue exceeds \$5000 and
24 any petition related to the issuance or denial of an
25 exemption ruling.

1 (b) The Tax Tribunal may fix a fee, not in excess of the
2 fees charged and collected by the clerk of the circuit courts,
3 for comparing, or for preparing and comparing, a transcript of
4 the record, or for copying any record, entry, or other paper
5 and the comparison and certification thereof.

6 (c) Fees collected under this Section shall be deposited
7 into the Illinois Independent Tax Tribunal Fund, a special fund
8 created in the State treasury. Moneys deposited into the Fund
9 shall be appropriated to the Tax Tribunal to reimburse the Tax
10 Tribunal for costs associated with administering and enforcing
11 the provisions of this Act.

12 (d) The Tax Tribunal shall not assign any costs or
13 attorney's fees incurred by one party against another party.
14 Claims for expenses and attorney's fees under Section 10-55 of
15 the Illinois Administrative Procedure Act shall first be made
16 to the Department of Revenue. If the claimant is dissatisfied
17 because of the Department's failure to make any award or
18 because of the insufficiency of the award, the claimant may
19 petition the Court of Claims for the amount deemed owed.

20 (Source: P.A. 97-1129, eff. 8-28-12; 98-463, eff. 8-16-13.)

21 (35 ILCS 1010/1-63)

22 Sec. 1-63. Automatic Remand and Mediation.

23 (a) Every case governed by this Act shall be remanded
24 automatically to the Department of Revenue for a period ending
25 90 days following the filing of the petition (the "remand

1 period"). During the remand period, the parties shall meet and
2 confer in good faith, making particular efforts to resolve the
3 case by settlement, if possible. All parties may by agreement
4 waive the remand period or have a case returned to the Tax
5 Tribunal at any time.

6 (b) At any point in the proceedings before the Tax Tribunal
7 after the expiration of the remand period, but prior to the
8 hearing under Section 1-65 of this Act, the parties may jointly
9 petition the Tax Tribunal for mediation. The purpose of the
10 mediation shall be to attempt to settle any contested issues or
11 the case in its entirety. An administrative law judge other
12 than the one initially assigned to hear the case shall serve as
13 the mediator.

14 (Source: P.A. 97-1129, eff. 8-28-12.)

15 Section 99. Effective date. This Act takes effect upon
16 becoming law.