

810-14-1-.16 Uniform Revenue Procedures -- Appeal from Final Assessment.

(1) SCOPE. The provisions contained herein shall govern appeals to the Alabama Tax Tribunal (hereinafter, the "Tax Tribunal") or to a Circuit Court. However, with the exception of the property of public utilities under Chapter 21 of Title 40, nothing herein shall be construed to apply to the appeal of ad valorem taxes on real or personal property which is administered by the various counties of the State of Alabama.

(2) DEFINITIONS.

(a) Final Assessment. Shall have the meaning ascribed to it pursuant to Section 40-2A-3 of the Code of Alabama.

(b) Ad Valorem Taxes. The taxes commonly known as "property taxes" as provided in Title 40 of the Code of Alabama.

(3) PURPOSE. The purpose of this rule is to provide the taxpayer with the information necessary to make appeals.

(4) APPEAL OPTIONS. Within a 30 day period from the date mailed or delivered by personal service, whichever occurs earlier, a taxpayer may appeal (even if the taxpayer has paid the tax at issue prior to making the appeal) a Final Assessment to the:

(a) Tax Tribunal, or

(b) to a circuit court, as provided below.

(5) APPEALS TO ALABAMA TAX TRIBUNAL. If the taxpayer chooses to appeal to the Tax Tribunal, the taxpayer must notify the Tax Tribunal Judge in writing of the intent to appeal. The written appeal notice must be filed with the Tax Tribunal within the following time limits: (1) within 30 days from the date on which a Final Assessment is mailed as provided in Section 40-2A-7(b)(4)d or delivered by personal service, whichever occurs earlier; (2) within two years from the date on which a petition for refund is denied or deemed denied; (3) within 30 days after the date on which the Department mails notice of any denial or revocation of a license, permit, or certificate of title from which the taxpayer is entitled to appeal pursuant to Section 40-2A-8; provided, however, the burden is on the taxpayer to show that the appeal was filed within 30 days of actual notice; (4) within 30 days after the date on which the Department mails notice of a proposed adjustment to a taxpayer's net operating loss deduction or carryover concerning the taxes imposed by Chapters 16 or 18 of Title 40; or (5) within 30 days after 5 years from the date a preliminary assessment was entered by the Department that has not been withdrawn or made final by the Department. The notice of appeal must contain the taxpayer's name, address, telephone number, type of tax and tax period(s) being appealed, and a brief statement explaining the objection(s) to the Final Assessment. A

copy of the Final Assessment should be attached to the notice of appeal. The appeal should be sent to the address specified in the rules promulgated by the Tax Tribunal.

(6) **APPEALS DIRECTLY TO CIRCUIT COURT.** If the taxpayer chooses to appeal directly to the circuit court, as provided by applicable statutes, in lieu of an appeal to the Tax Tribunal, the taxpayer may appeal to either the Montgomery County Circuit Court or, if the taxpayer resides or has a principal place of business within Alabama, the circuit court of the Alabama county in which the taxpayer resides or has a principal place of business. The taxpayer must file a written notice of appeal within thirty (30) days of the date the final assessment was mailed or delivered by personal service, whichever occurs earlier, with both the Secretary of the Department and the clerk of the circuit court in the county where the appeal is filed. The Department's copy should be sent to the following address:

Secretary of the Department
Alabama Department of Revenue
P. O. Box 327001
Montgomery, AL 36132-7001.

And, the taxpayer must do one of the following:

(a) Pay the total tax, interest, and any penalty shown on the final assessment in full; or

(b) Execute a supersedeas bond with the court for 125 percent of the amount of the total tax, interest, and any penalty shown on the final assessment.

(c) File an irrevocable letter of credit with the circuit court in an amount equal to 125 percent of the amount of the tax, interest, and any penalty shown on the final assessment. The irrevocable letter of credit shall be issued by a financial institution designated as a qualified public depository by the Board of Directors of the SAFE program pursuant to the provisions of Chapter 14A, Title 41, Code of Alabama. The State of Alabama shall be named the beneficiary of the irrevocable letter of credit. The irrevocable letter of credit shall be conditioned to pay the assessment plus applicable interest and any court costs relating to the appeal. The taxpayer may not issue an irrevocable letter of credit for a final assessment entered against the same taxpayer;

(d) File a pledge or collateral assignment of securities that constitute eligible collateral under Chapter 14A, Title 41, Code of Alabama, in an amount equal to 200 percent of the amount of the tax, interest, and penalty shown on the final assessment. The pledge or collateral assignment shall be conditioned to pay the assessment plus applicable interest and any court costs relating to the appeal;

(e) Show to the satisfaction of the clerk of the circuit court to which the appeal is taken that the taxpayer has a net worth, on the basis of fair market value, of two hundred fifty-thousand dollars (\$250,000) or less, including his or her homestead.

(7) APPEALS TO CIRCUIT COURT FROM A FINAL ORDER OF THE TAX TRIBUNAL JUDGE. Either the taxpayer or the department may appeal to circuit court from a final order issued by the Tax Tribunal Judge by filing a notice of appeal with the Tax Tribunal and with the circuit court within 30 days from the date of entry of the final order. Any appeal by the department shall be filed with the circuit court of the county in which the taxpayer resides or has a principal place of business in Alabama. If the taxpayer neither resides in Alabama nor has a principal place of business in Alabama, the appeal may be made to the Circuit Court of Montgomery County, Alabama. Any appeal by the taxpayer may be taken to the Circuit Court of Montgomery County, Alabama, or to the circuit court of the county in which the taxpayer resides or has a principal place of business in Alabama and the taxpayer must do one of the following:

(a) Pay the amount stated in the final order of the, Tax Tribunal Judge plus applicable interest.

(b) Execute a supersedeas bond, which shall be executed by a surety company licensed to do business in Alabama, for 125 percent of the amount stated as due in the final order of the, Tax Tribunal Judge, including tax, interest, and any applicable penalty, payable to the state and conditioned to pay the amount stated in the final order plus applicable interest due the state and any court cost relating to the appeal.

(c) File an irrevocable letter of credit with the circuit court in an amount equal to 125 percent of the amount stated as due in the final order of the, Tax Tribunal Judge. The irrevocable letter of credit shall be issued by a financial institution designated as a qualified public depository by the Board of Directors of the SAFE program pursuant to the provisions of Chapter 14A, Title 41. The State of Alabama shall be named the beneficiary of the irrevocable letter of credit. The irrevocable letter of credit shall be conditioned to pay the assessment plus applicable interest and any court costs relating to the appeal. The taxpayer may not issue an irrevocable letter of credit as to an appeal by the same taxpayer.

(d) File a pledge or collateral assignment of securities that constitute eligible collateral under Chapter 14A, Title 41, in an amount equal to 200 percent of the amount stated as due in the final order of the, Tax Tribunal Judge. The pledge or collateral assignment shall be conditioned to pay the assessment plus applicable interest and any court costs relating to the appeal.

(e) Show to the satisfaction of the clerk of the circuit court to which the appeal is taken that the taxpayer has a net worth (based on fair market value) of two hundred fifty thousand dollars (\$250,000) or less, including his or her homestead.

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Authority: Sections 40-2A-7(a)(5), 40-2A-7(b)(5)b., and 40-2A-7(b)(4)d., Code of Alabama 1975

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