

AICPA Endorses Alabama Taxpayers' Bill of Rights II Legislation

By

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The American Institute of CPAs ("AICPA") recently endorsed and applauded the Alabama Society of CPA's efforts to pass the proposed Alabama Tax Appeals Commission Act / Alabama Taxpayers' Bill of Rights II ("[TBOR II](#)"). Readers may recall that TBOR II (Senate Bill 549) was passed by the Alabama Legislature on the last day of the 2012 Regular Session, but the bill was pocket vetoed by Governor Bentley due to the inadvertent omission of certain changes to the judicial appointment process in the Conference Committee Substitute. The AICPA's endorsement is especially noteworthy because the Alabama legislation is the first endorsement by that well-respected national organization of a specific state's tax tribunal legislation. That endorsement comes on the heels of their endorsement of the ABA Model State Administrative Tax Tribunal Act this summer.

This landmark legislation would create the independent Alabama Tax Appeals Commission (ATAC), which is accomplished by abolishing the current Administrative Law Division of the ADOR and transferring both the personnel and equipment to a newly-formed state agency, under the executive branch. One key feature of ATAC would be the ability for taxpayers to appeal assessments of sales, use, rental, or lodging tax from self-administered cities and counties and their contract auditing firms to the ATAC, unless the governing body of the city or county opts out. The annual appropriation for the Administrative Law Division would simply be assigned to ATAC, so there would not be any additional cost. Alabama is now in the distinct minority of states that lack an independent tax appeals tribunal. For example, Georgia, Illinois and Mississippi legislatures have recently created independent tax courts.

The bill also includes several changes to Alabama's existing procedural provisions, such as extending the appeal periods for preliminary and final assessments from 30 to 60 days for most taxpayers and allowing taxpayers with disputed NOL adjustments the option to appeal to ATAC. Further, at the request of the Department of Revenue, the bill also amends the so-called RAR reporting requirements and modernizes certain penalties consistent with their federal counterparts.

The sponsors and supporters of TBOR II are optimistic that the proposal will be enacted in the upcoming 2013 Regular Session. Governor Bentley has pledged his support.