



Legislative Council Staff

Research Note

Version: Final

Date: 5/16/2016

Bill Number

Senate Bill 16-036

Sponsors

**Senators Neville T. & Jahn
Representatives Kraft-Tharp &
Keyser**

Short Title

***Surety Reqmnt For Appealing
Tax Bills Claimed Due***

Research Analyst

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Status

This research note reflects the final version of the bill and becomes effective upon the signature of the Governor.

Summary

This bill changes the circumstances under which a taxpayer is required to set aside money when he or she files a notice of appeal of a tax decision with a court. The bill repeals the requirement that a taxpayer set aside money for all appeals to a district court, except in cases of a frivolous tax claim submission as determined by the Department of Revenue (DOR). Rather than setting aside money before a tax case is heard by the district court, a taxpayer does not have to set aside money unless he or she appeals a district court decision to an appellate court or to the Colorado Supreme Court. In these cases, money must be set aside no later than 14 days after the district court ruling.

The amount required to be set aside mirrors current law. The taxpayer may choose to:

- post a surety bond equal to twice the amount of taxes, interest, and other charges stated as due;
- deposit twice the amount stated as due in a saving account, or obtain a certificate of deposit; or
- deposit the amount stated as due with the DOR.

If the taxpayer chooses to deposit the amount stated as due with the DOR, further interest is not accrued while the money is set aside.

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Background

The Department of Revenue provides dispute resolution for taxpayers that protest a notice of a deficient tax payment or a rejected refund claim. The department also provides dispute resolution for home rule jurisdictions' sales and use tax assessment or refund denials.

Under current law, a taxpayer may request a hearing to appeal a tax decision about a deficient payment or rejected refund claim with the Executive Director of the Department of Revenue. Upon receipt of a request for a hearing, the department will schedule an informal conference with the taxpayer or his or her representative. If possible, the tax matter will be settled during this conference. In the event the protest is not resolved during the informal conference, it will be forwarded to the Executive Director for a formal hearing. If the taxpayer is not satisfied with the final determination by the Executive Director, he or she may appeal the decision to the district court. Within 15 days of filing the notice of appeal, the taxpayer is required to set aside money in twice the amount stated as due in a final determination by the Executive Director. The money may be set aside in the form of a surety bond, in a savings account or certificate of deposit, or submitted directly to the Department of Revenue.

The Executive Director may determine that a request for a hearing is a "frivolous submission" if the request for the hearing "is based on a position that was previously rejected in published opinion by the Colorado or federal courts."¹

Senate Action

Senate Finance Committee (February 9, 2016). Representatives of the Colorado Municipal League, the Jefferson County Business Lobby, and the Coalition to Simplify the Colorado Sales Tax testified in support of the bill. The committee adopted amendments L.003, and L.004. Amendment L.003 allows a taxpayer to set aside money with the Executive Director of DOR for an appeal to a district court in order to avoid the accumulation of interest during the set aside period. Amendment L.004 replaces the safety clause with a petition clause. The committee referred the bill to the Senate Appropriations Committee.

Senate Appropriations Committee (April 15, 2016). The committee adopted an amendment specifying that the provisions of the bill can be implemented within existing appropriations, and that no separate appropriation of state money is needed. The committee referred the bill to the Senate Committee of the Whole.

Senate Second Reading (April 20, 2016). The Senate adopted the Senate Appropriations Committee report and passed the bill on second reading with no amendments.

Senate Third Reading (April 21, 2016). The Senate passed the bill on third reading with no amendments.

Senate Consideration of House Amendments (May 11, 2016). The Senate concurred with the House amendments and repassed the bill.

¹Section 39-21-104.5, C.R.S.

House Action

House Business Affairs and Labor Committee (April 26, 2016). No witness testimony was heard. The committee referred the bill to the House Appropriations Committee.

House Appropriations Committee (May 9, 2016). The committee adopted Amendment J.004, which eliminated the changes made to the bill by the Senate Appropriations Committee and added an appropriations clause. The amendment appropriated \$100,000 to the DOR from the General Fund and authorized the reappropriation of these moneys to the Department of Law for costs to implement the bill. The amendment also stated that the departments may request supplemental appropriations to implement the bill based on documented evidence that legal caseload increases exceed the appropriation initially provided. The committee referred the bill to the House Committee of the Whole.

House Second Reading (May 10, 2016). The House adopted the House Appropriations Committee report and passed the bill on second reading with no amendments.

House Third Reading (May 11, 2016). The House passed the bill on third reading with no amendments.

Relevant Research

Department of Revenue Tax Dispute Process: <http://tinyurl.com/jqnhxf>