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REVENUE AND TAXATION

General Provisions: Develop Taxpayer Bill of Rights

CODE SECTION: O.C.G.A. § 48-1-8 (new)
BILL NUMBER: HB 87
ACT NUMBER: 280
SUMMARY: The Act requires the Commissioner of Revenue to develop a statement describing, in simple language, taxpayer rights, procedures for enforcing those rights, and notification that the taxpayer will receive courteous and responsive service. The Act further provides for distribution of the statement.
EFFECTIVE DATE: July 1, 1993¹

History

Taxpayers typically have a “general distrust of the taxing authority.”² It was this general concern, rather than any specific instances of taxpayer discontent in Georgia, that prompted the introduction of HB 87.³

On December 29, 1992, Governor Zell Miller announced a proposed bill of rights for Georgia taxpayers.⁴ According to Governor Miller, similar bills had been enacted in other states, including Texas, Arkansas, and South Carolina.⁵ “Government should not forget that its sole purpose . . . is to serve the taxpayer,” Mr. Miller commented in a written statement. This bill is aimed at helping the public understand [tax collection] procedures, and how to protest them if needed.’⁶

1. Although the Act is effective July 1, 1993, the statement which the Act mandates is not required to be completed until January 1, 1994. O.C.G.A. § 48-1-8(b) (Supp. 1993). The practical effect of the Act is thus delayed.

2. Telephone Interview with Rep. Tom Bordeaux, House District No. 151 (Apr. 15, 1993) [hereinafter Bordeaux Interview]. Rep. Bordeaux was one of three sponsors of HB 87. *Id.*

3. *Id.* However, critics of the Act characterize it as an ineffective substitute for bills such as HB 253, which was a proposed response to taxpayer dissatisfaction about property tax assessment and appeal procedures. Telephone Interview with Corrie MacCullough, Executive Director of the Georgia Taxpayers Association (Apr. 15, 1993). HB 253 outlined detailed taxpayer rights and procedures regarding the property tax assessment and appeal process. HB 253, as introduced, 1993 Ga. Gen. Assem. The bill never left the House Ways and Means Committee.

4. Steve Harvey, *Governor Pushing for Taxpayers’ Bill of Rights: State Would Stress Service to Citizens*, ATLANTA J. & CONST., Dec. 30, 1992, at C3.

5. *Id.*

6. *Id.*

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The Act creates a new section to Chapter 1, General Provisions,⁷ of the Georgia Public Revenue Code.⁸ The Act styles itself as the "Taxpayer Bill of Rights,"⁹ and requires that the Commissioner of Revenue prepare a statement by January 1, 1994, using "simple and nontechnical terms."¹⁰ The statement is intended to inform the taxpayers of their rights and procedures in a negative encounter with the Georgia Department of Revenue.¹¹ In addition to distribution upon taxpayer request and when the Commissioner of Revenue finds it appropriate, the statement must be distributed "[w]hen a proposed assessment of any state tax is made against the taxpayer or when the taxpayer is contacted by the Department for an examination of the taxpayer's records, whichever is earlier."¹²

Section (b) of the Act outlines the content of the statement designed to specifically inform the taxpayer of how to proceed. First, the statement must specify the "rights of the taxpayer and the obligations of the [C]ommissioner during any tax audit or examination."¹³ Second, it must specify the procedures for appeal (both administrative and judicial) of adverse decisions by the Commissioner.¹⁴ Third, it must specify procedures for pursuing refunds and for making taxpayer complaints.¹⁵ Fourth, it must state "[t]he procedures which the Commissioner may use in enforcing the state's revenue laws, including the filing and enforcement of liens."¹⁶

Another component of the statement is supposed to "inform the taxpayer that the taxpayer shall receive"¹⁷ fair, accurate, and courteous service.¹⁸ While it may be impossible to mandate accurate and courteous service, the statement is intended to provide the taxpayer with a concrete guide with which to confront any instances of

7. The general provisions primarily address basic definitions and procedures for state revenue matters. O.C.G.A. §§ 48-1-1 to -8 (Supp. 1993).

8. O.C.G.A. §§ 48-1-1 to 48-15-11 (Supp. 1993).

9. *Id.* § 48-1-8(a) (Supp. 1993).

10. *Id.* § 48-1-8(b) (Supp. 1993).

11. Bordeaux Interview, *supra* note 2.

12. O.C.G.A. § 48-1-8(d)(2) (Supp. 1993).

13. *Id.* § 48-1-8(b)(1) (Supp. 1993).

14. *Id.* § 48-1-8(b)(2) (Supp. 1993).

15. *Id.* § 48-1-8(b)(3) (Supp. 1993).

16. *Id.* § 48-1-8(b)(4) (Supp. 1993).

17. *Id.* § 48-1-8(c) (Supp. 1993).

18. Specifically, the Act first calls for "[f]air and courteous treatment in all dealings with the [D]epartment." *Id.* § 48-1-8(c)(1) (Supp. 1993). Second, it advises of "[p]rompt and accurate responses to all questions and requests for tax assistance." *Id.* § 48-1-8(c)(2) (Supp. 1993). Finally, it advises of a "fair and timely hearing on a dispute of any tax liability as provided for by law." *Id.* § 48-1-8(c)(3) (Supp. 1993).

discourtesy.¹⁹ The Act, through the statement it mandates, changes an unwritten rule—that a taxpayer is entitled to correct and polite answers—into a written rule.²⁰

As introduced in the House of Representatives on January 11, 1993, the bill mirrored the Governor's proposal,²¹ except that it added a section limiting distribution of the statement.²² The section requires the Commissioner of Revenue to take steps to ensure that a taxpayer does not receive multiple copies.²³ The reasoning behind this requirement was to reduce waste that might ensue if a taxpayer were sent a copy of the statement at each step of what might be a lengthy audit procedure.²⁴

The bill passed through the General Assembly with no changes and no challenges. Following favorable recommendation by the House Ways and Means Committee,²⁵ the bill was passed unanimously by the House of Representatives.²⁶ The bill passed the Senate, and was signed into law on April 5, 1993.²⁷

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19. Bordeaux Interview, *supra* note 2.

20. *Id.*

21. Press Advisory issued by the Office of the Governor of the State of Georgia, *Governor Miller to Introduce Taxpayer Bill of Rights* (Dec. 29, 1992) (available in Georgia State University College of Law Library).

22. HB 87, as introduced, 1993 Ga. Gen. Assem.

23. *Id.*

24. Bordeaux Interview, *supra* note 2.

25. Not surprising, since Committee Chair, Rep. William Dover, House District No. 9, was quoted as saying, "[I]t's an excellent idea . . . I applaud the Governor," when the bill was first proposed by Governor Miller. Harvey, *supra* note 4.

26. *House Wants Taxpayers to Have "Bill of Rights,"* ATLANTA J. & CONST., Feb. 13, 1993, at B3.

27. Press Advisory issued by the Office of the Governor of the State of Georgia, *Governor Miller Signs Bill to Create Taxpayer Bill of Rights* (Apr. 5, 1993) (available in Georgia State University College of Law Library).