

TAX TRIBUNAL ACT (EXCERPT)
Act 186 of 1973

CHAPTER 7

205.771 Provisions applicable to matters pending on effective date of act.

Sec. 71. The following subdivisions are applicable to a matter subject to the tribunal's jurisdiction, but which is pending on the effective date of this act before any forum, described in section 41:

(a) A matter which has not been heard on or before August 31, 1974, is transferred to the tribunal on September 1, 1974.

(b) A matter which has been heard on or before August 31, 1974, but which has not been decided on or before September 30, 1974, is transferred to the tribunal on October 1, 1974.

(c) Where a matter is transferred pursuant to subdivisions (a) or (b), the forum shall transfer to the tribunal, within 30 days after the date of transfer of the matter, all relevant books, records, documents, files, transcripts, funds, deposits, and securities.

(d) Where a matter is transferred pursuant to subdivisions (a) or (b), the forum shall notify, by certified mail, return receipt requested, not later than the date of transfer, the parties to such matter of the transfer, and of the fees required by section 49.

(e) Where a matter is transferred pursuant to subdivisions (a) or (b), the moving party shall pay not later than 30 days after the date of transfer, the filing fee and other fees required by section 49. In default of the payment, or on request of the moving party made before the expiration of the 30 days, the tribunal may dismiss the matter with prejudice.

(f) On the basis of prior proceedings and such supplemental proceedings as it deems necessary, the tribunal shall decide all matters transferred pursuant to subdivisions (a) or (b) as if they had been originally commenced before the tribunal. The tribunal may, in its discretion, waive any defects in pleadings or procedure occurring prior to July 1, 1974, that are not jurisdictional in nature.

History: 1973, Act 186, Eff. July 1, 1974;—Am. 1976, Act 365, Imd. Eff. Dec. 23, 1976.

205.772 Transfer of books, records, documents, files, transcripts, funds, deposits, and securities.

Sec. 72. When a matter is decided by a forum described in section 41, and when, after the effective date of this act, the decision is appealed, the forum shall transfer to the tribunal within 30 days after the date of the filing of the notice of appeal, all relevant books, records, documents, files, transcripts, funds, deposits, and securities.

History: 1973, Act 186, Eff. July 1, 1974.

205.773 Remands.

Sec. 73. When a matter is decided by a forum described in section 41 and the decision is appealed, and when, after the effective date of this act, the matter is remanded, the remand shall be to the tribunal for such action as the appellate court may direct.

History: 1973, Act 186, Eff. July 1, 1974.

205.774 Right to sue agency for refund abolished; payments under protest not required.

Sec. 74. The right to sue any agency for refund of any taxes other than by proceedings before the tribunal is abolished as of September 30, 1974. If a tax paid to an agency is erroneous or unlawful, it shall not be requisite that the payment be made under protest in order to invoke a right to refund by proceedings before the tribunal.

History: 1973, Act 186, Eff. July 1, 1974.

205.779 Effective date; commencement of new proceeding; hearing of new or transferred proceeding; certain persons or legal entities to proceed before tax tribunal only; cases filed under prior law; transfer of certain cases to board of tax appeals.

Sec. 79. (1) This act shall be effective July 1, 1974, but a new proceeding shall not be commenced before the tribunal before September 1, 1974, and a new or transferred proceeding shall not be heard by the tribunal before October 1, 1974.

(2) Except as provided in subsection (3) a person or legal entity which, immediately before January 1, 1976, was entitled to proceed before any quasi-judicial body, court of claims, probate court, district court, municipal court, common pleas court, or circuit court of this state for determination of a matter relating to the state income tax under Act No. 281 of the Public Acts of 1967, as amended, being sections 206.1 to 206.535

of the Michigan Compiled Laws, to the intangibles tax under Act No. 301 of the Public Acts of 1933, as amended, being sections 205.131 to 205.147 of the Michigan Compiled Laws, to the inheritance tax under Act No. 188 of the Public Acts of 1899, as amended, being sections 205.201 to 205.221 of the Michigan Compiled Laws, to the franchise fee under Act No. 284 of the Public Acts of 1972, as amended, being sections 450.1101 to 450.2099 of the Michigan Compiled Laws, to the general sales tax under Act No. 167 of the Public Acts of 1933, as amended, being sections 205.51 to 205.78 of the Michigan Compiled Laws, to the use tax under Act No. 94 of the Public Acts of 1937, as amended, being sections 205.91 to 205.111 of the Michigan Compiled Laws, to gasoline, liquified petroleum gas, and diesel motor fuel taxes under Act No. 150 of the Public Acts of 1927, as amended, being sections 207.101 to 207.194 of the Michigan Compiled Laws, to the cigarette tax under Act No. 265 of the Public Acts of 1947, as amended, being sections 205.501 to 205.522 of the Michigan Compiled Laws, or to the oil and gasoline severance tax under Act No. 48 of the Public Acts of 1929, as amended, being sections 205.301 to 205.317 of the Michigan Compiled Laws, shall proceed only before the tribunal. A case filed under previous law before January 1, 1976, shall proceed under those laws.

(3) Cases appealable to the state board of tax appeals and corporation tax appeal board shall continue to be filed with those boards until December 31, 1976. All such appeals commencing after December 31, 1976 shall be made to the state tax tribunal. Any appeals pending before the state board of tax appeals and the corporation tax appeal board shall be transferred to the tribunal on December 31, 1977, and the boards are abolished as of such date.

(4) Cases subject to the jurisdiction of the state board of tax appeals which were filed with the tribunal on or after January 1, 1976, and before the effective date of this amendatory act shall be transferred to the board of tax appeals.

History: 1973, Act 186, Eff. July 1, 1974;—Am. 1976, Act 37, Imd. Eff. Mar. 9, 1976.

Constitutionality: Op. Att'y Gen. No. 5138 (1976) states, in part: "I am, therefore, of the opinion that the legislation did not intend to abolish the State Board of Tax Appeals unless its jurisdiction was effectively transferred to another administrative or quasi-judicial body. Consequently, I conclude that 1973 PA 186, section 79, as originally enacted and as amended by 1976 PA 37 is invalid in its entirety and that it does not abolish the State Board of Tax Appeals."