



State Tax Tribunals

States continue looking at the adoption of tax tribunals as a means of resolving state tax appeal controversies prior to litigation and in a forum outside the dominion and control of the state tax authority.

Background

At least thirty-five states currently have tax tribunals located in either the executive or judicial branches of government.

Details regarding the legislation are included in the AICPA [Chart of States with and without State Tax Tribunals](#). Several legislatures are expected to continue to consider tax tribunal legislation.

The [2006 American Bar Association \(ABA\) Model State Administrative Tax Tribunal Act](#) (Model Act) provides legislative language that often serves as a base for legislation on this issue. As more states consider establishing independent tax appeal forums or revising existing tax appeal systems, it is important to review the proposals to ensure CPAs authorized to practice in the state are able to represent taxpayers before the tribunal.

In addition to the rights of CPAs to represent clients before proposed tax tribunals, it is also important to consider whether tax laws promote fairness and efficiency in regard to tax administration and policy. Issues of concern relate to:

- Independence from the State Revenue Commissioner/Department of Revenue;
- Avoiding “pay-to-play” (the ability to challenge an assessment without first paying the tax, interest, and penalties);
- Limited jurisdiction/specialized tax expertise;
- Experienced tax judges; and
- Published precedential decisions.

The specific details of the forums vary among the states, therefore, as states consider this issue, it is important for CPAs to advocate for fairness and mobility in representation rights before the tribunals. This issue is expected to continue to be debated around the country over the next several years.

Importance to CPAs

There are several reasons why state tax tribunals are a good idea for taxpayers and CPAs, as well as for the broader goal of good tax administration. Tax tribunals ensure a fair and effective tax administration system for taxpayers. All taxpayers would have a state tax appeal forum for state tax disputes that functions independently from the state tax authority. Additionally, tax tribunals – when structured in line with the ABA Model Act and state CPA mobility laws – provide CPAs with greater taxpayer representation rights and service opportunities.

AICPA Position

While the AICPA does not lobby directly at the state level, it supports efforts by state CPA societies who may advocate for the creation of state tax tribunals structured in line with the provisions of the ABA Model Act. The AICPA believes that if a state is considering possible legislation on this issue, “Section 16. Representation” of the ABA Model Act should be slightly revised to take into account state CPA mobility laws.

Links:

- [AICPA Position Paper on State Tax Tribunals, with Model Language](#)
- [Chart of States with and without State Tax Tribunals](#)
- [2006 ABA Model State Administrative Tax Tribunal Act](#)
- [AICPA Position Paper on Unauthorized Practice of Law](#)
- [AICPA Position Paper on Unauthorized Practice of Law - Executive Summary](#)