



Tuesday, February 18, 2020

Dear members of the Georgia House of Representatives,

On behalf of the Metro Atlanta Chamber, I write in support of House Bill 538 which puts Georgia taxpayers on an even playing field in state tax disputes by eliminating agency deference. This legislation would restore the constitutional separation of powers in tax controversies by abandoning the practice of judicial deference to determinations made by the Georgia Department of Revenue.

Stemming from a U.S. Supreme Court decision in *Chevron v. Natural Resources Defense Council*, the judicial doctrine known as “*Chevron* deference” requires that a court defer to an agency’s interpretation of an ambiguous statute so long as the agency’s interpretation meets the relatively low standard of being reasonable. Due to this doctrine, Georgia courts, including the Georgia Tax Tribunal which was created by the General Assembly in 2012, cannot exercise independent judgment to determine who has the better interpretation of the statute or regulation—the department or the taxpayer.

Passage of HB 538 would benefit all taxpayers engaged in disputes with the Georgia Department of Revenue by guaranteeing their ability to present their case before the Tax Tribunal with the knowledge that the judge will exercise his or her own independent judgment. While we have full confidence in the Georgia Department of Revenue to administer and enforce tax laws in a fair and professional manner, separation-of-powers dictates that the courts be the final arbiters of the law when tax disputes advance to the Tax Tribunal and beyond.

Joining other states which have already acted to eliminate agency deference would enhance Georgia’s competitiveness and status as a fair and equitable place to do business. It is the right thing to do from a legal standpoint and on behalf of Georgia taxpayers.

Sincerely,

Katie Kirkpatrick, P.E.
Chief Policy Officer