



Monday, February 22, 2021

Dear members of the Senate Judiciary Committee,

On behalf of the Metro Atlanta Chamber, I write in support of SB 185, which puts Georgia taxpayers on an even playing field in state tax disputes by eliminating judicial deference to the Department of Revenue's (DOR) interpretation of ambiguous law and regulations.

Federal judicial doctrine often requires Georgia courts, including the Georgia Tax Tribunal, to defer to the DOR's interpretation of ambiguous law and regulations even if the taxpayer's interpretation is better.

SB 185 would eliminate all judicial deference to subregulatory interpretations of the DOR in matters involving litigation between taxpayers and the DOR. Specifically, it would remove any deference to the DOR's interpretation of ambiguous constitutional, statutory, or regulatory provisions if the DOR's interpretation has not gone through formal Administrative Procedure Act rulemaking process. This legislation would also align Georgia with how deference is now applied at the federal level since the IRS has announced that it would no longer seek judicial deference to interpretations set forth only in subregulatory guidance.

Passage of SB 185 would benefit all taxpayers engaged in disputes with the Georgia DOR 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.

The Metro Atlanta Chamber supports this legislation as part of its efforts to promote taxpayer fairness in Georgia and to allow the Georgia Tax Tribunal to fulfill its mission as an impartial and independent state tax resolution forum. Joining other states that have already acted to eliminate deference to administrative agency interpretations would serve to strengthen Georgia's already attractive business climate without incurring a budgetary fiscal impact. It is the right thing to do from a legal standpoint and from an economic and taxpayer fairness perspective.

Sincerely,

Marshall Guest
Senior Vice President, Public Policy