

Section 120.575

CHAPTER 81-178

Section 12. Subsections (2) and (3), s. 213.20, Florida Statutes tentatively renumbered as 120.575.

120.575 Taxpayer contest proceedings.--

(2) In any such administrative proceeding brought pursuant to chapter 120 as authorized in s. 213.19(1), the taxpayer or other substantially affected party shall be designated the "petitioner" and the department shall be designated as the "respondent."

(3) In any administrative proceeding brought pursuant to s. 120.57, the department's burden of proof, except as otherwise specifically provided by general law, shall be limited to a showing that an assessment has been made against the taxpayer and the factual and legal grounds upon which the department made the assessment.

CHAPTER 85-342

Section 35. Subsection (3) is added to section 120.575, Florida Statutes, to read:

120.575 Taxpayer contest proceedings.--

(3)(a) Before a taxpayer may file a petition under this chapter, he shall pay to the department the amount of taxes, penalties and accrued interest assessed by the department which are not being contested by the taxpayer. Failure to pay the uncontested amount shall result in the dismissal of the action and imposition of an additional penalty of 25 percent of the amount taxed.

(b) The requirements of s. 72.011(2) and (3)(a) are jurisdiction for any action under this chapter to contest an assessment by Department of Revenue.

CHAPTER 87-6

Section 45. Subsection (1) of section 120.575, Florida Statutes, is amended to read:

120.575 Taxpayer contest proceedings.--

(1)(a) In any such administrative proceeding brought pursuant to chapter 120 as authorized in s. 72.011(1), the taxpayer or other substantially affected party shall be designated the "petitioner" and the Department of Revenue shall be designated the "respondent."

(b) In any such administrative proceeding brought pursuant to s. 120.57(1) as authorized in s. 72.011(1) to contest the legality of any assessment of tax imposed for the sale or use of services as provided in chapter 212, or interest thereon, or penalty therefor, the following procedures shall apply, any provisions of this chapter to the contrary notwithstanding:

1. The petition shall be filed with the division, which shall forward a copy to the department immediately upon receipt of the petition.

2. The panel provided in s. 120.65(5) shall conduct all proceedings under this paragraph.

3. Within 10 days after receiving the petition, the panel shall accept or deny the petition and, if accepted, shall conduct a hearing thereon, unless the petition is withdrawn.

4. Within 30 days after the hearing or receipt of the hearing transcript, whichever is later, the panel shall issue its order, which shall consist of findings of fact, conclusions of law, interpretation of administrative rules, and any other information required by law or rule to be contained in the final order. Such order shall affirm or deny the assessment, interest, or penalty, and shall determine the amount of any assessment, interest, or penalty.

5. The order of the panel shall be final agency action.

CHAPTER 87-101

Section 24. Paragraph (b) of subsection (1) of section 120.575, Florida Statutes, as created by chapter 87-6, Laws of Florida, is amended to read:

120.575 Taxpayer contest proceedings.--

(1)

(b) In any such administrative proceeding brought pursuant to s. 120.57(1) as authorized in s. 72.011(1) to contest the legality of any assessment of tax imposed for the sale or use of services as provided in chapter 212, or interest thereon, or penalty therefor, the following procedures shall apply, any provisions of this chapter to the contrary notwithstanding:

1. The petition shall be filed with the division, which shall forward a copy to the department immediately upon receipt of the petition.

2. The hearing officer or panel provided in s. 120.65(5) shall conduct all proceedings under this paragraph.

3. Within 10 days after receiving the petition, the hearing officer or panel shall accept or deny the petition ~~and, if accepted, shall conduct a hearing thereon, unless the petition is withdrawn.~~

4. Within 30 days after the hearing or receipt of the hearing transcript, whichever is later, the hearing officer or panel shall issue an ~~its~~ order, which shall consist of findings of fact, conclusions of law, interpretation of administrative rules, and any other information required by law or rule to be contained in the final order. Such order shall affirm or deny the assessment, interest, or penalty, and shall determine the amount of any assessment, interest, or penalty.

5. The order of the hearing officer or panel shall be final agency action.

CHAPTER 87-198

Section 4. Section 120.575, Florida Statutes, is amended to read:

120.575 Taxpayer contest proceedings.--

(1) In any administrative proceeding brought pursuant to chapter 120 as authorized in s. 72.011(1), the taxpayer or other substantially affected party shall be designated the "petitioner" and the Department of Revenue shall be designated the "respondent," except that for actions contesting an assessment under chapter 207 the Department of Highway Safety and Motor Vehicles shall be designated the "respondent."

(2) In any administrative proceeding brought pursuant to s. 120.57, the applicable department's burden of proof, except as otherwise specifically provided by general law, shall be limited to a showing that an assessment has been made against the taxpayer and the factual and legal grounds upon which the applicable department made the assessment.

(3)(a) Before a taxpayer may file a petition under this chapter, he shall pay to the applicable department the amount of taxes, penalties, and accrued interest assessed by that ~~the~~ department which are not being contested by the taxpayer. Failure to pay the uncontested amount shall result in the dismissal of the action and imposition of an additional penalty of 25 percent of the amount taxed.

(b) The requirements of s. 72-011(2) and (3)(a) are jurisdictional for any action under this chapter to contest an assessment by the Department of Revenue or by the Department of Highway Safety and Motor Vehicles.

CHAPTER 91-112

Section 7. Section 120.575, Florida Statutes, is amended to read:

120.575 Taxpayer contest proceedings.--

(1)(a) In any administrative proceeding brought pursuant to chapter 120 as authorized in s. 72.011(1), the taxpayer or other substantially affected party shall be designated the "petitioner" and the Department of Revenue shall be designated the "respondent," except that for actions

contesting an assessment or denial of refund under chapter 207 the Department of Highway Safety and Motor Vehicles shall be designated the "respondent."

(b) In any such administrative proceeding brought pursuant to s. 120.57(1) as authorized in s. 72.011(1) to contest the legality of any assessment or denial of refund of tax imposed for the sale or use of services as provided in chapter 212, or interest thereon or penalty therefor, the following procedures shall apply, any provisions of this chapter to the contrary notwithstanding:

1. The petition shall be filed with the division, which shall forward a copy to the department immediately upon receipt of the petition.

2. The hearing officer or panel provided in s. 120.65(5) shall conduct all proceedings under this paragraph.

3. Within 10 days after receiving the petition, the hearing officer or panel shall accept or deny the petition.

4. Within 30 days after the hearing or receipt of the hearing transcript, whichever is later, the hearing officer or panel shall issue an order, which shall consist of findings of fact, conclusions of law, interpretation of administrative rules, and any other information required by law or rule to be contained in the final order. Such order shall affirm or deny the assessment, interest, ~~or~~ penalty, or denial of refund and shall determine the amount of any assessment, interest, ~~or~~ penalty, or refund.

5. The order of the hearing officer or panel shall be final agency action.

(2) In any administrative proceeding brought pursuant to s. 120.57, the applicable department's burden of proof, except as otherwise specifically provided by general law, shall be limited to a showing that an assessment has been made against the taxpayer and the factual and legal grounds upon which the applicable department made the assessment.

(3)(a) Before a taxpayer may file a petition under this chapter, he shall pay to the applicable department the amount of taxes, penalties, and accrued interest assessed by that department which are not being contested by the taxpayer. Failure to pay the uncontested amount shall result in the dismissal of the action and imposition of an additional penalty of 25 percent of the amount taxed.

(b) The requirements of s. 72.011(2) and (3)(a) are jurisdictional for any action under this chapter to contest an assessment or denial of refund by the Department of Revenue or by the Department of Highway Safety and Motor Vehicles.

CHAPTER 92-315

Section 20. Section 120.575, Florida Statutes, is amended to read:

120.575 Taxpayer contest proceeding.--

(1)(a) In any administrative proceeding brought pursuant to chapter 120 as authorized in s. 72.011(1), the taxpayer or other substantially affected party shall be designated the "petitioner" and Department of Revenue shall be designated the "respondent," except that for actions contesting an assessment or denial of refund under chapter 207 the Department of Highway Safety and Motor Vehicles shall be designated the "respondent."

~~(b) In any such administrative proceeding brought pursuant to s. 120.57(1) as authorized in s. 72.011(1) to contest the legality of any assessment or denial of refund of tax imposed for the sale or use of services as provided in chapter 212, or interest thereon or penalty therefor, the following procedures shall apply, any provisions of this chapter to the contrary notwithstanding:~~

~~1. The petition shall be filed with the division, which shall forward a copy to the department immediately upon receipt of the petition.~~

~~2. The hearing officer or panel provided in s. 120.65(5) shall conduct all proceedings under this paragraph.~~

~~3. Within 10 days after receiving the petition, the hearing officer or panel shall accept or deny the petition.~~

~~4. Within 30 days after the hearing or receipt of the hearing transcript, whichever is later, the hearing officer or panel shall issue an order, which shall consist of findings of fact, conclusions of law, interpretation of administrative rules, and any other information required by law or rule to be contained in the final order. Such order shall affirm or deny the assessment, interest, penalty, or denial of refund and shall determine the amount of any assessment, interest, penalty, or refund.~~

~~5. The order of the hearing officer or panel shall be final agency action.~~

(2) In any administrative proceeding brought pursuant to s. 120.57, the applicable department's burden of proof, except as otherwise specifically provided by general law, shall be limited to a showing that an assessment has been made against the taxpayer and the factual and legal grounds upon which the applicable department made the assessment.

(3)(a) Before a taxpayer may file a petition under this chapter, he shall pay to the applicable department the amount of taxes, penalties, and accrued interest assessed by that department which are not being contested by the taxpayer. Failure to pay the uncontested amount shall result in the dismissal of the action and imposition of an additional penalty of 25 percent of the amount taxed.

(b) The requirements of s. 72.011(2) and (3)(a) are jurisdictional for any action under this chapter to contest an assessment or denial of refund by the Department of Revenue or by the Department of Highway Safety and Motor Vehicles.

(4) Except as provided in s. 220.719, further collection and enforcement of the contested amount of an assessment for nonpayment or underpayment of any tax, interest, or penalty shall be stayed beginning on the date a petition is filed. Upon entry of a final order, an agency may resume collection and enforcement action.

(5) The prevailing party, in a proceeding under s. 120.57 authorized by s. 72.011(1), may recover all legal costs incurred in such proceeding, including reasonable attorney's fees, if the losing party fails to raise a justifiable issue of law or fact in its petition or response.

CHAPTER 96-159

Section 1. It is the intent of the Legislature to consider the impact of any agency rulemaking required by proposed legislation and to determine whether the proposed legislation provides adequate and appropriate standards and guidelines to direct the agency's implementation of the proposed legislation.

Section 22. Section 120.575, Florida Statutes, as amended by chapters 94-353 and 95-147, Laws of Florida, is hereby repealed.