GEORGIA TAX TRIBUNAL

NOTICE OF PROPOSED RULES OF PROCEDURE

CHAPTER 616-1-3

TO ALL INTERESTED PERSONS AND PARTIES:

Notice is hereby given that, pursuant to the authority set forth below, the Chief Judge of the Georgia Tax Tribunal proposes to adopt Rules under Chapter 616-1-3, entitled "Rules of the Georgia Tax Tribunal." In the formulation of the proposed Rules, the Georgia Tax Tribunal has considered the economic costs associated with the regulations and the impact on small businesses in the state and has proposed the Rules, to the extent possible, to minimize excessive regulatory costs on parties appearing before the Georgia Tax Tribunal.

The specific rules to be adopted are Ga. Comp. R. & Regs. 616-1-3-.01 through 616-1-3-.31 consisting of:

616-1-3-.01 Definitions
616-1-3-.02 Applicability and Scope of Rules
616-1-3-.03 Filing and Submitting Documents
616-1-3-.04 Amendments to Pleadings
616-1-3-.05 Privacy Protection for Filings Made With the Tribunal
616-1-3-.06 Filing Fees
616-1-3-.07 Threshold and Rules Applicable to Small Claims Division Cases
616-1-3-.08 Service
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616-1-3-.10 Changes of Time
616-1-3-.11 Standard of Review
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616-1-3-.13 Consolidation; Severance
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616-1-3-.20 Evidence; Official Notice
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616-1-3-.25 Motions for Reconsideration or Rehearing
616-1-3-.26 Default
616-1-3-.27 Appeals from Orders of the Tax Tribunal
616-1-3-.28 Transfer of the Record to Appellate Court
616-1-3-.29 Publication of Orders of the Tax Tribunal

616-1-3-.30 Appearance by Attorneys; Signing of Pleadings
616-1-3-.31 Attorney Withdrawals; Leaves of Absence

Attached with this notice are copies of the Rules (Exhibit "A"), as well as a synopsis of the proposed Rules (Exhibit "B").

This notice, together with an exact copy of the proposed Rules and synopsis is being mailed to all persons who have requested in writing that they be placed on the mailing list. The notice, rules, and synopsis may also be reviewed during normal business hours (Monday-Friday, 8:30 a.m. to 4:30 p.m.), excluding official state holidays, at the Offices of State Administrative Hearings' front desk, located at 225 Peachtree Street, N.E., Suite 400, Atlanta, Georgia 30303, or on the Georgia Tax Tribunal's website, under Rules & Standing Orders, http://gataxtribunal.georgia.gov/documents/rules-standing-orders.

The intended effective date of the rules is February 16, 2015. The rules will be considered for adoption on February 2, 2015 at 1:00 p.m., at the offices of the Office of State Administrative Hearings, Courtroom 4. To ask questions or submit data, views, or arguments orally or in writing, please contact the Georgia Tax Tribunal Administrator, Yvonne Bouras at telephone number (404) 657-2806, fax number (404) 818-3744, or email address ybouras@gataxtribunal.ga.gov.

Promulgation of these rules is pursuant to O.C.G.A. §§ 50-13A-15.

This 23rd day of December, 2014.

CHARLES R. BEAUDROT, JR.
CHIEF JUDGE
GEORGIA TAX TRIBUNAL

EXHIBIT "A" TO

GEORGIA TAX TRIBUNAL

NOTICE OF PROPOSED RULES OF PROCEDURE

CHAPTER 616-1-3

RULES OF THE GEORGIA TAX TRIBUNAL

CHAPTER 616-1-3
ADMINISTRATIVE RULES OF PROCEDURE FOR TAX TRIBUNAL

616-1-3-.01 DEFINITIONS
616-1-3-.02 APPLICABILITY AND SCOPE OF RULES
616-1-3-.03 FILING AND SUBMITTING DOCUMENTS
616-1-3-.04 AMENDMENTS TO PLEADINGS
616-1-3-.05 PRIVACY PROTECTION FOR FILINGS MADE WITH THE TRIBUNAL
616-1-3-.06 FILING FEES
616-1-3-.07 THRESHOLD AND RULES APPLICABLE TO SMALL CLAIMS DIVISION CASES
616-1-3-.08 SERVICE
616-1-3-.09 COMPUTING TIME
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616-1-3-.11 STANDARD OF REVIEW
616-1-3-.12 INITIAL CONFERENCE AND PRE-TRIAL CONFERENCES
616-1-3-.13 CONSOLIDATION; SEVERANCE
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616-1-3-.16 DEPOSITIONS; WRITTEN DIRECT TESTIMONY
616-1-3-.17 MOTIONS
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616-1-3-.20 EVIDENCE; OFFICIAL NOTICE
616-1-3-.21 CONSTITUTIONAL ISSUES
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616-1-3-.23 PROCEDURE FOR HEARINGS AND TRIALS
616-1-3-.24 RECORD OF HEARINGS AND TRIALS
616-1-3-.25 MOTIONS FOR RECONSIDERATION OR REHEARING
616-1-3-.26 DEFAULT
616-1-3-.27 APPEALS FROM ORDERS OF THE TAX TRIBUNAL
616-1-3-.28 TRANSFER OF THE RECORD TO APPELLATE COURT
616-1-3-.29 PUBLICATION OF ORDERS OF THE TAX TRIBUNAL

616-1-3-.01 Definitions

As used in this Chapter, the term:

(a) "Tax Tribunal" means the Georgia Tax Tribunal established by Chapter 13A of Title 50.

(b) "Tribunal Judge" means a Judge of the Tax Tribunal.

(c) "Civil Practice Act" means the Georgia Civil Practice Act, O.C.G.A § 9-11-1 *et seq*.

(d) "Clerk" means the Clerk of the Tax Tribunal.

(e) "Order" means a decision, including a final judgment, entered by a Tribunal Judge.

(f) "Person" means any individual, agency, partnership, firm, corporation, association, or other entity.

(g) "Department" means the Georgia Department of Revenue.

(h) "Commissioner" means the Commissioner of the Georgia Department of Revenue.

(i) "Attorney General" means the Georgia Office of the Attorney General.

(j) "Small Claims Division" refers to the division within the Tax Tribunal established by Code Section 50-13A-16(a) and having jurisdiction over proceedings meeting the requirements of 616-1-3-.07.

Authority O.C.G.A. § 50-13A-1 *et seq*.

616-1-3-.02 Applicability and Scope of Rules

This chapter governs the procedure in all actions before the Tax Tribunal and shall be construed to secure the determination of every action of the Tax Tribunal in an efficient and cost effective manner with the goals of achieving a just, speedy and inexpensive resolution. Where in any instance there is no applicable rule of procedure, the Tribunal Judge before whom the matter is pending may prescribe the procedure, giving particular weight to the Civil Practice Act and the Rules of the United States Tax Court to the extent that their provisions are suitably adaptable to the matter at hand.

Authority O.C.G.A. § 50-13A-15(b).

616-1-3-.03 Filing and Submitting Documents

(a) Any person may petition the Tax Tribunal for relief as provided in Code Sections 48-2-18, 48-2-35, 48-2-59, 48-3-1, 48-5-519, 48-6-7, 48-6-76 and subparagraph (d)(2)(C) of Code Section 48-7-31. The Tax Tribunal shall have jurisdiction over actions for declaratory judgment that fall within subsection (a) of Code Section 50-13-10 and involve a rule of the Commissioner that is applicable to taxes administered by the Commissioner under Title 48.

(b) A case is commenced in the Tax Tribunal by filing a petition with the Clerk. The petition shall be in writing, and shall include a summary statement of facts and law upon which the petitioner relies in seeking the requested relief. Such petition may be filed using form or forms as prepared by the Department and approved by the Tax Tribunal or using such other forms or in such other form prepared by the petitioner which reasonably specifies the matter for consideration by the Tax Tribunal.

(c) No later than 30 days after the service of the petition, the Commissioner and any other respondents shall file a response to petitioner's statement of facts and law which constitutes his or her answer.

(d) A document is deemed filed on the earlier of (i) the date it is received by the Clerk; (ii) the official postmarked date on which the document was mailed, properly addressed with postage prepaid; or (iii) the date on which it was delivered to a commercial delivery company for statutory overnight delivery as provided in Code Section 9-10-12 as evidenced by the receipt provided by the commercial delivery company. The Clerk's office hours shall be 8:00 a.m. to 4:30 p.m., Monday through Friday, except State legal holidays. In addition to traditional paper filing, documents other than the petition, may be filed by e-mail attachment as prescribed on the website of the Tax Tribunal.

(e) All documents shall be signed by the person, attorney, or other authorized agent or representative filing the documents, and shall include the name, address, telephone number, email address, and representative capacity of the person filing the documents. By signing the document, the signer certifies that he or she has read the documents and is not filing the documents for any improper purpose.

(f) Failure to comply with this Rule or any other requirement of this Chapter relating to the form or content of submissions to be filed may result in the noncomplying submission being excluded from consideration. If, on a party's motion or on a Tribunal Judge's own motion, the Tribunal Judge determines that a submission fails to meet any requirement of this Chapter, the Tribunal Judge may direct the Clerk to return the submission by mail or email together with a reference to the applicable Rule(s). A party whose submission has been returned shall have ten (10) days from the date that the party receives the submission's return within which to conform the submission and to re-file it.

Authority O.C.G.A. §§ 50-13A-10, 50-13A-18.

616-1-3-.04 Amendments to Pleadings

Pleadings and proceedings before the Tax Tribunal shall be subject to the amendment and supplementation provisions of Code Section 9-11-15.

Authority O.C.G.A. § 50-13A-10(c).

616-1-3-.05 Privacy Protection for Filings Made with The Tribunal

(a) Except as otherwise required by these Rules or directed by the Tax Tribunal, in a filing with the Tribunal, a party or nonparty making the filing should refrain from including or should take appropriate steps to redact the following information:

(1) Taxpayer identification numbers (e.g., Social Security numbers or employer identification numbers).

(2) Dates of birth. If a date of birth is provided, only the year should appear.

(3) Names of minor children. If a minor child is identified, only the minor child's initials should appear.

(4) Financial account numbers. If a financial account number is provided, only the last four digits of the number should appear. The parties may also agree that the foregoing information does not have to be redacted, if they so desire.

(b) The Tax Tribunal may order that a filing containing any of the information described in paragraph (a) of this Rule be made under seal without redaction. The Tax Tribunal may later unseal the filing or order the person who made the filing to file a redacted version for the public record.

(c) For good cause, the Tax Tribunal may by order in a case:

(1) Require redaction of additional information; or

(2) issue a protective order that a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way.

(d) A person making a redacted filing may also file an un-redacted copy under seal. The Tax Tribunal must retain the un-redacted copy as part of the record.

(e) A person waives the protection of this Rule as to the person's own information by filing it without redaction and not under seal. The Clerk of the Tax Tribunal is

not required to review documents filed with the Tax Tribunal for compliance with this Rule. The responsibility to redact a filing rests with the party or nonparty making the filing.

(f) A party may correct an inadvertent disclosure of identifying information in a prior filing by submitting a properly redacted substitute filing within 60 days of the original filing without leave of the Tribunal, and thereafter only by leave of the Tribunal.

(g) If a Tribunal Judge orders that any document or documents may be filed under seal, such document or documents shall not be available for public inspection and shall be transmitted to any appellate court in the same sealed manner.

Authority O.C.G.A. § 50-13A-15(b).

616-1-3-.06 Filing Fees

(a) The filing fee for all cases other than Small Claims Division cases shall be Sixty Dollars ($60.00). If the petitioner in the initial petition makes the election under O.C.G.A. § 50-13A-16 to have the Small Claims Division have jurisdiction over such proceeding, no filing fee will be due in connection with the filing of such petition. If the petitioner makes the election to have the Small Claims Division have jurisdiction over the matters subsequent to the filing of the initial petition, any filing fee previously paid will not be refunded.

(b) A similar fee shall be paid by other parties making an appearance in the proceeding (other than any government body or government official appearing in a representative capacity).

(c) All filing fees shall be paid directly to the Georgia Tax Tribunal.

Authority O.C.G.A. § 50-13A-12.

616-1-3-.07 Threshold and Rules Applicable to Small Claims Division Cases

(a) At the time of filing a petition with the Tax Tribunal, or within 90 days thereafter, a taxpayer may elect to have the Small Claims Division have jurisdiction over any proceeding:

(1) contesting an income tax liability or liabilities where the total amount of tax and penalties in controversy, exclusive of interest, is less than $15,000; or

(2) contesting a tax liability or liabilities, other than income tax, where the total amount of tax and penalties in controversy, exclusive of interest, is less than $50,000.

(b) Notwithstanding the provisions of paragraph (a) above, the Small Claims Division shall not have jurisdiction over any proceeding contesting a tax liability (or associated penalties) alleged by the Commissioner or other respondent to be due, either in whole or in part, to evasion or attempted evasion.

(c) Petitions for relief as set forth in Code Sections 48-2-18, 48-5-519, or 48-7-31(d)(2)(C) and actions for declaratory relief described in Code Section 50-13A-10(a) may not proceed in the Small Claims Division.

(d) A taxpayer may not revoke an election to proceed in the Small Claims Division after expiration of the 90-day period set forth in paragraph (a) above.

(e) On the motion of a party to the case or on the motion of a Tribunal Judge, a Tribunal Judge may remove a case from the Small Claims Division for good cause shown.

(f) In Small Claims Division proceedings, accountants or other tax return preparers designated by the taxpayer shall be permitted to accompany and appear with the taxpayer in order to provide factual information regarding positions taken on tax returns of the taxpayer.

(g) Small Claims Division hearings and trials shall be conducted in a manner consistent with proceedings before magistrate courts, as specified in Article 3 of Chapter 10 of Title 15.

(h) Testimony in Small Claims Division cases shall be given under oath or affirmation.

(i) Unless requested by a party, there shall be no transcript or record taken of hearings or trials in the Small Claims Division. In the event that a party requests there be a transcript or record taken of such hearing, the party requesting such transcript or record shall pay the entire take-down costs unless the Tax Tribunal conducting such hearing shall otherwise determine.

(j) Final judgments and other orders in Small Claims Division cases shall be conclusive upon all parties and may not be appealed.

(k) Small Claims Division final judgments shall not be considered, cited, or otherwise relied upon as precedent in any other case, hearing or proceeding. See O.C.G.A. § 50-13A-16(g).

Authority O.C.G.A. §§ 50-13A-14(c), 50-13A-14(f), 50-13A-16.

616-1-3-.08 Service

(a) Petitions filed with the Tax Tribunal must be served on the Commissioner and the Attorney General, and a certificate of service of such petition shall be attached to the petition filed with the Tax Tribunal. Service of a petition shall be accomplished by certified mail or statutory overnight delivery. In the case of a refund action pursuant to Code Sections 48-6-7 or 48-6-76, the petition shall also be served on the clerk of the superior court or collecting officer who is made a party to the action.

(b) Service of all other documents filed with the Tax Tribunal shall be governed by Code Section 50-13A-18.

(c) Documents, including motions and requests, may not be embedded in an email. Any filing by email must be done by attachment to the email, in either Word or Pdf format and served in accordance with this Rule 616-1-3-.08.

Authority O.C.G.A. §§ 50-13A-10, 50-13A-18.

616-1-3-.09 Computing Time

(a) Any period of time set forth in these Rules or, except as otherwise provided by law, in Chapter 13A of Title 50 shall begin on the first day following the day of the act that initiates the time period. When the last day of the time period is a day on which the Tax Tribunal is closed, the time period shall run until the end of the next business day.

(b) Whenever a party has a right or requirement to act or respond to service of notice or other document by another party within a period prescribed by these Rules or in Chapter 13A of Title 50 and not otherwise specified by law, three (3) days shall be added to that prescribed period if the notice or document is served by first class mail.

Authority O.C.G.A. §§ 50-13A-15(b), 50-13A-19.

616-1-3-.10 Changes of Time

For good cause shown, a Tribunal Judge, either on a Tribunal Judge's own motion or on a party's motion, may change any time limit prescribed or allowed in this chapter that is not otherwise specified by law. The Tribunal Judge shall notify all parties of any determination to change a time period.

Authority O.C.G.A. §§ 50-13A-15(b), 50-13A-19.

616-1-3-.11 Standard of Review

(a) All proceedings before the Tax Tribunal shall be de novo in nature, and the evidence on the issues in a hearing or trial shall not be limited to the evidence presented to or considered by the Department prior to the Department's decision.

(b) Unless otherwise provided by law, the standard of proof on all issues in a hearing shall be preponderance of the evidence.

(c) Except as otherwise may be provided by law, the burden of proof in all proceedings before the Tax Tribunal shall be upon the petitioner.

Authority O.C.G.A. § 50-13-14.

616-1-3-.12 Initial Conference and Pre-Trial Conferences

(a) As soon as reasonably practicable, a Tribunal Judge may order the parties to appear at a specified time and place for one or more initial conferences to address discovery, scheduling, and other matters. At the discretion of the Tribunal Judge, such conferences may be conducted in whole or in part by telephone. The Tribunal Judge may require the parties to submit written proposals regarding a schedule for pre-trial procedures, including the submission and disposition of all pre-trial motions, or such other matters as the Tribunal Judge may direct.

(b) Prior to any trial, the Tribunal Judge may require the parties to submit written proposals and to appear before the Tribunal Judge regarding:

1. simplification, clarification, amplification, or limitation of the issues;

2. evidentiary matters, such as:

    a. identification of documents expected to be tendered by a party;

    b. admissions and stipulations of facts and the genuineness and admissibility of documents;

    c. identification of persons expected to be called as witnesses by a party and the substance of the anticipated testimony;

    d. identification of expert witnesses expected to be called by a party to testify and the substance of the facts and opinions to which the expert witness is expected to testify and a summary of the grounds for each opinion;

    e. objections to the introduction into evidence at the trial of any written testimony, documents, papers, exhibits or other submissions proposed by any party;

f. matters for which official notice is sought; and

3. other matters that may expedite trial procedures or that the Tribunal Judge otherwise deems appropriate.

Authority O.C.G.A. § 50-13A-10(e).

616-1-3-.13 Consolidation; Severance

(a) In cases involving common issues of law or fact, a Tribunal Judge may order a joint hearing or trial to expedite or simplify consideration of any or all of the issues in such cases.

(b) If a Tribunal Judge determines that it would be more conducive to an expeditious, full, and fair hearing or trial for any party or issue to be heard separately, the Tribunal Judge may sever the party or issue for a separate hearing or trial.

Authority O.C.G.A. §§ 50-13A-15(b), 50-13A-19.

616-1-3-.14 Remands

(a) A Tribunal Judge may, either on the Tribunal Judge's own motion or at the motion of any party, stay and remand any matter to the Department at any time. In exercising discretion relating to the remand of a matter, the Tribunal Judge shall consider, among other things, the possible delay created by a remand and its impact upon the parties, the likelihood that a remand could cause a change in the position taken by the Department, and the need for the peculiar expertise and experience of the Department in insuring a just and orderly administrative process.

(b) Such stay and remand shall not divest the Tax Tribunal of jurisdiction.

Authority O.C.G.A. § 50-13A-10(f).

16-1-3-.15 Discovery

(a) The provisions of the Civil Practice Act governing discovery and depositions shall apply to proceedings before the Tax Tribunal. However, the parties shall make every effort to conduct discovery by informal consultation or communication before utilizing discovery and depositions.

(b) Upon motion of a party or on a Tribunal Judge's own motion, the frequency or extent of formal discovery methods may be limited if the Tribunal Judge determines that the discovery is unduly burdensome or expensive when taking into account the amount in controversy, limitations on the parties' resources, and the importance of the issues at stake in the action.

Authority O.C.G.A. § 50-13A-13.

616-1-3-.16 Depositions; Written Direct Testimony

(a) At any time during the course of a proceeding, a Tribunal Judge may order that the testimony of a witness is to be taken by deposition or in response to written questions.

(b) A Tribunal Judge may specify whether the scope of examination by deposition should be limited.

(c) Procedures for oral depositions to secure testimony shall be as follows:

1. Examination and cross-examination of a deponent shall proceed under the same rules of evidence as are applicable to hearings under this Chapter. Each deponent shall be duly sworn by an officer authorized to administer oaths by the laws of the United States or the place where the examination is held, and the deponent's testimony shall be recorded and transcribed. Any objections made at the time of the deposition to the qualifications of the officer taking the deposition, to the manner in which the deposition was taken, to the evidence presented, to the conduct of any party, or to the proceedings shall be recorded and included in the transcript. Evidence to which there is an objection shall be taken subject to the objection.

2. Any error or irregularity in the notice of taking testimony by deposition shall be deemed waived unless written objection thereto is filed with the Clerk and served upon all parties prior to the deposition in accordance with this Chapter. Any objection relating to the qualifications of the officer before whom the deposition is to be taken shall be deemed waived unless made before the deposition begins or as soon thereafter as the alleged lack of qualification becomes known or should have been discovered in the exercise of reasonable diligence.

3. Any objection to the competency of a witness or to the competency, relevancy, or materiality of testimony is not waived by failure to make an objection before or during the deposition unless the ground of the objection is one which might have been removed if presented at the time. Any error or irregularity occurring during the deposition in the administration of the oath or affirmation, the manner in which the deposition was taken, the form of questions or the answers thereto, the conduct of any party, or any error of a kind which might have been removed or cured if timely raised, shall be deemed waived unless reasonable objection thereto is made at the deposition.

4. Any error or irregularity in the manner in which the testimony is transcribed or the deposition is prepared, certified, transmitted, filed, or

otherwise dealt with by the officer taking the deposition shall be deemed waived unless a motion to strike all or a part of the deposition is made with reasonable promptness after such error or irregularity is or should have been ascertained in the exercise of reasonable diligence.

5. The deposition shall be transcribed, certified, and filed with the Clerk. Any party who contends that the transcript does not truly or fully disclose what transpired at the deposition shall file a notice with the Clerk specifying alleged errors and omissions within ten (10) days of the filing of the deposition. If the parties are unable to agree as to the alleged errors and omissions, the Tribunal Judge shall set the matter down for hearing with notice to all parties for the purpose of resolving the differences so as to make the record conform to the truth.

6. Documents and things produced for inspection during the examination of the witness shall be marked for identification and attached to and filed with the deposition, and may be inspected and copied by a party. Copies may be substituted for originals if each party is given an opportunity to compare the proffered copy with the original to verify its correctness.

(d) 1. A party may make an application to the Tax Tribunal to take a deposition, otherwise allowed under this Chapter and the Civil Practice Act, upon written questions rather than oral examination. The provisions of the Civil Practice Act shall apply in all respects to such a deposition except to the extent clearly inapplicable. Unless there is a special reason for taking the deposition on written questions rather than oral examination, the Tax Tribunal will deny the application, without prejudice to taking the deposition upon oral examination. The taking of depositions upon written questions is not favored, except when the deposition is to be taken in a foreign country, in which event the deposition must be taken on written questions unless otherwise directed by the Tribunal for good cause shown.

2. An application under paragraph (1) above shall have the written questions annexed thereto. A party has 20 days following service of the application in which to object, and within that 20-day period the objecting or responding party shall also file with the Tribunal any cross-questions which such party may desire to be asked at the taking of the deposition. The applicant shall then file any objections to the cross-questions, as well as any redirect questions, within 15 days after service on the applicant of the cross-questions. Within 15 days after service of the redirect questions on the other party, the other party shall file with the Tribunal any objections to the redirect questions, as well as any recross-questions which the other party may desire to be asked. No objection to a written question will be considered unless it is filed with the Tribunal within such applicable time. The party filing the original application and all parties responding thereto shall file the original copy of all questions and objections with the Clerk and will serve a copy on the opposite party. The

Tribunal Judge for good cause shown may enlarge or shorten the time in any respect.

3. The officer taking the deposition shall propound all questions to the witness in their proper order. The parties and their counsel may attend the taking of the deposition but shall not participate in the deposition proceeding in any manner.

(e) Unless otherwise ordered by a Tribunal Judge, a party submitting written direct testimony in support of an issue on which it has the burden of proof shall file and serve the written direct testimony upon all parties no less than fifteen (15) days before the hearing. The admissibility of the evidence contained in written testimony shall be subject to the same rules as if the testimony were produced under oral examination. The witness presenting the statement shall swear to or affirm the statement at the hearing and shall be subject to full cross-examination.

(f) Subject to appropriate rulings on objections, a deposition or written direct testimony shall be received in evidence as if the testimony had been given by the witness before a Tribunal Judge.

(g) Whenever used in this Rule, the word "witness" shall be construed to include parties.

Authority O.C.G.A. § 50-13A-15(b).

616-1-3-.17 Motions

(a) All requests made to a Tribunal Judge shall be made by motion. Unless made during a hearing or trial, motions shall be in writing, shall state specifically the grounds on which it is based, and shall describe the action or order sought. A copy of all written motions shall be served in accordance with this Chapter.

(b) A response to a motion may be filed within ten (10) days after service of the written motion or within the time set by a Tribunal Judge. Either party may request an expedited ruling.

(c) Unless otherwise provided, all motions shall be filed at least ten (10) days prior to the date set for hearing unless the need or opportunity for the motion could not reasonably have been foreseen. Such motions shall be filed as soon as the need or opportunity for the motion becomes reasonably foreseeable.

(d) All motions, and responses thereto, shall include citations of supporting authorities and, if germane, supporting affidavits or citations to evidentiary materials of record.

(e) A Tribunal Judge may determine whether the nature and complexity of the motion justifies a hearing on the motion and notify the parties accordingly. A request for a hearing on a motion must be made in writing and filed by the date the response

to the motion is due. Notice of a hearing on a motion shall be given by the Tribunal Judge at least five (5) days prior to the date set for hearing. At the discretion of the Tribunal Judge, a hearing on a motion may be conducted in whole or in part by telephone.

(f) Multiple motions may be consolidated for hearing or prehearing conference. A Tribunal Judge may order the submission of briefs or oral argument relative to any motion.

Authority O.C.G.A §§ 50-13A-15(b), 50-13A-19.

616-1-3-.18 Stipulations

After the period for completing discovery has expired, or earlier as the parties may agree, the parties to a proceeding shall stipulate all relevant and nonprivileged matters to the fullest extent to which complete or qualified agreement can be reached or fairly should be reached. Neither the existence of nor the use of the discovery mechanisms authorized by Chapter 13A of Title 50 or this Chapter shall excuse failure to comply with this requirement to file stipulations.

Authority O.C.G.A. § 50-13A-13(b).

616-1-3-.19 Motions for Summary Judgment

(a) A party may move, based on supporting affidavits or other probative evidence, for summary judgment in its favor on any of the issues being adjudicated on the basis that there is no genuine issue of material fact for trial. There shall be included in the motion or attached thereto a short and concise statement of each of the material facts as to which the moving party contends there is no genuine issue for trial. Unless the Tribunal Judge otherwise orders, such a motion must be filed and served on all parties no later than thirty (30) days before the date set for hearing. For good cause shown, a motion may be filed at any time before the close of the hearing.

(b) Unless the Tribunal Judge otherwise orders, a party may file and serve a response to a motion for summary judgment or a countermotion for summary judgment within thirty (30) days of service of the motion for summary judgment. The response shall include a short and concise statement of each of the material facts as to which the party opposing summary judgment contends there exists a genuine issue for trial.

(c) When a motion for summary judgment is supported as provided in this Rule, a party opposing the motion may not rest upon mere allegations or denials, but must show, by affidavit or other probative evidence, that there is a genuine issue of material fact for trial.

(d) Affidavits shall be made upon personal knowledge, shall set forth facts that would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all documents to which reference is made in an affidavit shall be attached thereto and served therewith. Where facts necessary for summary judgment are a matter of expert opinion, such facts may be resolved on the basis of uncontroverted affidavits or testimony of expert opinion.

(e) The Tribunal Judge may set the motion for oral argument and call for the submission of proposed findings of fact, conclusions of law, and briefs.

Authority O.C.G.A. § 50-13A-15(b).

616-1-3-.20 Evidence; Official Notice

A Tribunal Judge shall apply the rules of evidence as applied in the trial of civil nonjury cases in the superior courts. With respect to Small Claims Division cases, the Tribunal Judge may, when necessary to ascertain facts not reasonably susceptible of proof under such rules, also consider evidence not otherwise admissible if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.

Authority O.C.G.A. §§ 50-13A-14, 50-13A-14(c), and 50-13A-15(b).

616-1-3-.21 Constitutional Issues

Whenever any party raises issues under either the Georgia or United States Constitution, the sections of any laws or rules constitutionally challenged and any constitutional provisions such laws or rules are alleged to violate must be stated with specificity. In addition, an allegation of unconstitutionality must be supported by a statement either of the basis for the claim of unconstitutionality as a matter of law or of the facts under which the party alleges that the law or rule is unconstitutional as applied to the party. Although a Tribunal Judge is not authorized to resolve constitutional challenges to statutes or rules, the Tribunal Judge may, in the Tribunal Judge's discretion, take evidence and make findings of fact relating to such challenges.

Authority O.C.G.A. § 50-13A-15(b).

616-1-3-.22 Subpoenas; Notices to Produce

(a) Subpoenas may be issued which require the attendance and testimony of witnesses and the production of objects or documents at proceedings provided for by these Rules. The party on whose behalf the subpoenas are issued shall be responsible for completing and serving the subpoenas sufficiently in advance of the proceeding to secure the attendance of a witness or the deposed testimony of the witness at the time of the proceeding.

(b) Subpoenas shall be in writing and filed at least five (5) days prior to the proceeding at which a witness or document is sought, shall be served upon all parties, and shall identify the witnesses whose testimony is sought or the documents or objects sought to be produced. Every subpoena shall state the title of the action.

(c) Subpoenas may be obtained from the Office of State Administrative Hearings website or from the Clerk. A subpoena may be served at any place within Georgia and by any sheriff, by a sheriff's deputy, or by any other person not less than eighteen (18) years of age.

(d) Proof of service may be shown by certificate endorsed on a copy of the subpoena. Subpoenas may also be served by registered or certified mail or statutory overnight delivery, and the return receipt shall constitute prima facie proof of service. Service upon a party may be made by serving the party's counsel of record. Once issued, a subpoena may be quashed by a Tribunal Judge if it appears that the subpoena is unreasonable or oppressive, or that the testimony, documents, or objects sought are irrelevant, immaterial, or cumulative and unnecessary to a party's preparation and presentation of its position at the proceeding, or that basic fairness dictates that the subpoena should not be enforced. The Tribunal Judge may require the party issuing the subpoena to advance the reasonable cost of producing the documents or objects.

(e) Once issued and served, unless otherwise conditioned or quashed, a subpoena shall remain in effect until the close of the proceeding or until the witness is excused, whichever comes first.

(f) A party may serve a notice to produce in order to compel production of documents or objects in the possession, custody, or control of another party in lieu of serving a subpoena under this Rule. Service may be perfected in accordance with these Rules.

(g) A notice to produce shall be in writing and shall be signed by the party or by the party's attorney seeking production of documents or objects. The notice shall be directed to the opposing party or the opposing party's attorney. A copy of any notice to produce shall be filed with the Clerk.

(h) Fees and mileage shall be paid to the recipient of a subpoena in accordance with O.C.G.A. §§ 24-13-25 and 24-13-28.

Authority O.C.G.A. §§ 50-13A-13(d), (f).

616-1-3-.23 Procedure for Hearings and Trials

(a) In a hearing or trial conducted under this Chapter, a Tribunal Judge shall make an independent determination on the basis of the competent evidence presented at the hearing or trial.

(b) If a party includes in its pleadings a challenge to the regularity of the process by which the Department reached a decision, a Tribunal Judge shall take evidence and reach a determination on such a challenge at the outset of the hearing. The party making such challenge shall have the burden of proof. If the Tribunal Judge finds the challenge meritorious, the Tribunal Judge may remand the matter to the Department for further review.

(c) A Tribunal Judge shall conduct a fair and impartial hearing, take action to avoid unnecessary delay in the disposition of the proceedings, and maintain order. A Tribunal Judge may, among other things:

1. arrange for and issue notices of the date, time, and place of hearings and prehearing conferences;

2. establish the methods and procedures to be used in the development of the evidence;

3. hold prehearing conferences to settle, simplify, determine, or strike any of the issues in a hearing, or to consider other matters that may facilitate the expeditious disposition of the hearing;

4. administer oaths and affirmations;

5. regulate the course of the hearing and govern the conduct of the participants;

6. examine witnesses called by the parties;

7. rule on, admit, exclude, or limit evidence;

8. establish the time for filing motions, testimony, and other written evidence, exhibits, briefs, proposed findings of fact and conclusions of law, and other submissions;

9. rule on motions and procedural matters, including but not limited to motions to dismiss for lack of jurisdiction or for summary judgment;

10. order that the hearing be conducted in stages whenever the number of parties is large or the issues are numerous and complex;

11. allow cross-examination as required for a full and true disclosure of facts;

12. order that any information so entitled under applicable state or federal statute or regulation be treated as confidential information and be accorded the degree of confidentiality required thereby;

13. reprimand or exclude from the hearing any person for any indecorous or improper conduct;

14. subpoena and examine witnesses or evidence the Tribunal Judge believes necessary for a full and complete record; and

15. take any action not inconsistent with this Chapter or Chapter 13A of Title 50 to maintain order at the hearing and ensure an expeditious, fair, and impartial hearing.

(d) When two or more parties have substantially similar interests and positions, a Tribunal Judge may limit the number of attorneys or other party representatives who will be permitted to cross-examine and to argue motions and objections on behalf of those parties. Attorneys may engage in cross-examination relevant to matters which the Tribunal Judge finds have not been adequately covered by previous cross-examination.

(e) A hearing or trial, or a portion thereof, may be conducted by alternate means if the record reflects that all parties have consented and that the alternate means will not jeopardize the rights of a party to the hearing.

Authority O.C.G.A. §§ 50-13A-14, 50-13A-19.

616-1-3-.24 Record of Hearings and Trials

(a) All rulings, orders, and notices issued by a Tribunal Judge, all pleadings and motions, all recordings or transcripts of oral hearings, trials, or arguments, all written direct testimony, all other data, studies, reports, documentation, information, and other written material of any kind submitted in the proceedings, including but not limited to documents filed under seal, a statement of matters officially noticed, all proposed findings of fact, conclusions of law, and briefs, shall be a part of the record and shall be available to the public, except as provided by law according confidentiality.

(b) Except for proceedings of the Small Claims Division, all hearings or trials shall be recorded by electronic means or, if requested by a party, which party shall pay all associated costs, stenographically reported verbatim. Upon written request, an electronic copy of the record of any oral proceeding shall be furnished to any party at the requesting party's expense. If a party desires to have a written transcript made of any hearing or trial, the requesting party shall bear all costs of having such written transcript prepared.

(c) All documentary and physical evidence shall be retained by the Clerk unless and until the record is transmitted upon appeal.

Authority O.C.G.A. §§ 50-13A-14(f), 50-13A-15(b).

616-1-3-.25 Motions for Reconsideration or Rehearing

(a) A motion for reconsideration or rehearing will be considered only if filed within ten (10) days of the entry of any Order. The time for filing such a motion may be extended by a Tribunal Judge for good cause.

(b) A Tribunal Judge shall not grant a motion for reconsideration or rehearing until after the expiration of the period for a response by any other party provided in Section 616-1-3-.17.

(c) No party shall be required to file a motion for reconsideration or rehearing in order to preserve the right of appeal from an Order of the Tax Tribunal.

Authority O.C.G.A. §§ 50-13A-15(b), 50-13A-17(c).

616-1-3-.26 Default

(a) A default order may be entered against a party that fails to participate in any stage of a proceeding, a party that fails to file any required pleading, or a party that fails to comply with an order issued by a Tribunal Judge. Any default order shall specify the grounds for the order.

(b) Any default order may provide for a default as to all issues, a default as to specific issues, or other limitations, including limitations on the presentation of evidence and on the defaulting party's continued participation in the proceeding. After issuing a default order, a Tribunal Judge shall proceed as necessary to resolve the case without the participation of the defaulting party, or with such limited participation as the Tribunal Judge deems appropriate, and shall determine all issues in the proceeding, including those affecting the party in default.

(c) Within fifteen (15) days of the entry of a default order, the party against whom the default order was issued may file a written motion requesting that the order be vacated or modified, and stating the grounds for the motion.

(d) A Tribunal Judge may decline to enter a default or may open a default previously entered if the party's failure was the result of providential cause or excusable neglect, or if the Tribunal Judge determines from all of the facts that a proper case has been made to deny or open the default.

(e) If a party fails to attend an evidentiary hearing after having been given written notice, a Tribunal Judge may proceed with the hearing in the absence of the party unless the absent party is the party who requested the hearing, in which case the Tribunal Judge may dismiss the action. Failure of a party to appear at the time set for hearing shall constitute a failure to appear, unless excused for good cause.

Authority O.C.G.A. § 50-13A-10(b).

616-1-3-.27 Appeals from Orders of the Tax Tribunal

Any party may appeal a final judgment of the Tax Tribunal, except for judgments of the Small Claims Division, to the Superior Court of Fulton County. Proceedings for appeal shall be instituted by filing a petition with the Superior Court of Fulton County within 30 days after the service of the Tax Tribunal's final judgment or, if a timely motion for reconsideration or rehearing was filed, within 30 days after the decision thereon. Such petition shall satisfy the requirements of O.C.G.A. § 50-13A-17 and any other requirements imposed by the Superior Court of Fulton County.

Authority O.C.G.A. § 50-13A-17.

616-1-3-.28 Transfer of the Record to Appellate Court

(a) Within 30 days after the service of the petition for judicial review or within further time allowed by the Superior Court of Fulton County, the Clerk shall compile and certify the entire record of the proceeding under review, including the transcript of any hearing or trial and any documents filed under seal. The Tribunal Judge may fix a fee, not in excess of the fees charged and collected by the clerks of the superior courts of this state, for compiling such record or for copying or certifying any other documents.

(b) By stipulation of all parties to the review proceedings, the record may be shortened. A party unreasonably refusing to stipulate to limit the record may be taxed by the reviewing court for the additional costs.

Authority O.C.G.A. §§ 50-13A-12(c), 17(d).

616-1-3-.29 Publication of Orders of the Tax Tribunal

Except as to Orders issued in Small Claims Division proceedings, all final judgments of the Tax Tribunal shall be indexed and published in such print or electronic form as the chief tribunal judge deems best adapted for public convenience. Such publications shall be made permanently available and constitute the official reports of the Tax Tribunal.

Authority O.C.G.A. § 50-13A-15(d).

616-1-3-.30 Appearance by Attorneys; Signing of Pleadings

(a) Except as authorized in Section 616-1-3-.07 of this Chapter or where authorized by law, no person shall represent any party in a proceeding before a Tribunal Judge unless the person is an active member in good standing of the State Bar of Georgia and has filed an entry of appearance in the case in the attorney's individual name. An entry of appearance shall not be required by any attorney of record whose name appears on the petition or response filed pursuant to Section 616-1-3-.03 of this Chapter.

(b) Nonresident attorneys who are not active members of the State Bar of Georgia may be permitted to appear *pro hac vice* before a Tribunal Judge in isolated cases in the discretion of the Tribunal Judge. A motion to appear in a particular case shall state the jurisdiction in which the nonresident attorney regularly practices and state that the nonresident attorney agrees to behave in accordance with the Georgia standards of professional conduct and the duties imposed upon attorneys by O.C.G.A. § 15-19-4.

(c) Every pleading, motion, or other paper of a party represented by an attorney shall be signed by at least one attorney of record in the attorney's individual name, whose address shall be stated. A party who is not represented by an attorney shall sign the party's pleadings and state the party's address. The signature of an attorney constitutes a certificate by the attorney that the attorney has read the pleading and that it is not interposed for any improper purpose, including, but not limited to, delay or harassment. If a pleading, motion, or other paper is signed in violation of this Rule, a Tribunal Judge, upon motion of any party or upon the Tribunal Judge's own motion, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, including, but not limited to, dismissal.

Authority O.C.G.A. §§ 50-13A-15(b), 50-13A-19.

616-1-3-.31 Attorney Withdrawals; Leaves of Absence

Attorneys of record shall follow the Uniform Rules for the Superior Courts for withdrawals and leaves of absence.

Authority O.C.G.A. §§ 50-13A-15(b), 50-13A-19.

EXHIBIT "B" TO

GEORGIA TAX TRIBUNAL

NOTICE OF PROPOSED RULES OF PROCEDURE

CHAPTER 616-1-3

SYNOPSIS OF PROPOSED RULES OF THE GEORGIA TAX TRIBUNAL

The purpose of these rules ("Rules") is to provide for rules governing the operation of and procedures for the Georgia Tax Tribunal so as to secure the determination of every action in the Georgia Tax Tribunal in an efficient and cost-effective manner, with the goals of achieving a just, speedy and inexpensive resolution of cases.

A synopsis of the Rules is as follows:

616-1-3-.01 **DEFINITIONS:** This Rule defines various terms used in the Rules.

616-1-3-.02 **APPLICABILITY AND SCOPE OF RULES:** This Rule provides for the procedures of the Tax Tribunal and further provides that if there is no Rule applicable to a specific situation, the Tribunal Judge may follow the Civil Practice Act and the Rules of the United States Tax Court, by example.

616-1-3-.03 **FILING AND SUBMITTING DOCUMENTS:** This Rule details the procedures for filing and submitting documents. It does the following:

1. identifies the jurisdictional bases of the Tax Tribunal;
2. specifies how cases are to be initiated through the filing of a Petition;
3. specifies the time for the Answer to a Petition by the Commissioner;
4. specifies various rules to determine the date on which items are deemed filed;
5. specifies how documents are to be executed and the information to be provided in connection with filings; and
6. provides that non-conforming filings may be subject to dismissal.

616-1-3-.04 **AMENDMENTS TO PLEADINGS**: This rule adopts the amendment and supplementation provisions of O.C.G.A. § 9-11-15.

616-1-3-.05 **PRIVACY PROTECTION FOR FILINGS MADE WITH THE TRIBUNAL:** This Rule provides for procedures to protect the confidentiality of certain identifying information, including, but not limited to, Petitioner taxpayer identification numbers, dates of birth, names of minor children and financial

account information. It also provides for redacted filings and for the issuance of protective orders to maintain the confidentiality information where appropriate.

616-1-3-.06 **FILING FES:** This Rule provides for a filing fee of $60.00 for cases other than Small Claims Division cases. No filing fee is provided for cases where the Petitioner elects to proceed in the Small Claims Division.

616-1-3-.07 **THRESHOLD AND RULES APPLICABLE TO SMALL CLAIMS DIVISION CASES:** This Rule sets the criteria for cases eligible for Small Claims Division cases and provides that cases are eligible to proceed in the Small Claims Division if such cases involve:

1. Contested income tax liability or liabilities where the total amount of tax and penalties in controversy, exclusive of interest, is less than $15,000, or
2. In all other matters, contested liability or liabilities where the total amount of tax and penalties in controversy, exclusive of interest, is less than $50,000.

The Rule also provides exceptions that exclude cases from the Small Claims Division if the cases involve evasion or attempted evasion of tax or seek declaratory relief.

The Rule provides that the Small Claims Division election may not be revoked after a 90-day period. The Rule provides that, on motion by a party or on the Tribunal Judge's own motion, a case may be removed from the Small Claims Division.

The Rule also provides procedures for appearances by counsel or other tax return preparers which are permitted to accompany the Taxpayer in order to provide factual information. The Rule provides that Small Claims Hearings are specified to follow the procedures for magistrate's courts and the admissibility of evidence in Small Claims Division.

The Rule also provides that the Small Claims Division cases are conclusive on all parties, may not be appealed and may not be cited as precedent.

616-1-3-.08 **SERVICE:** This Rule provides that:

1. all Petitions filed with the Tax Tribunal must be served on the Commissioner and on the Attorney General;
2. a certificate of service must be attached to the Petition filed with the Tax Tribunal;
3. service of the Petition is required to be accomplished by certified mail or statutory overnight delivery; and

4. in the case of a refund action, the Petition must also be served on the Clerk of the Superior Court or collecting officer, who is made a party to the action

The rule also incorporates O.C.G.A. § 50-13A-18 and limits the filing of motions or requests in an email.

616-1-3-.09 **COMPUTING TIME:** This Rule provides that;

1. time periods begin on the first day following the date of the act that initiates the time period;
2. when the last day of the time period is a day in which the Tax Tribunal is closed, the time period runs until the end of the next business day; and
3. three (3) days are added to the prescribed period if the notice or document is served by first class mail.

616-1-3-.10 **CHANGES OF TIME:** This Rule gives the Tribunal Judge authority to adjust time periods to the extent not otherwise required by law.

616-1-3-.11 **STANDARD OF REVIEW:** This Rule provides that:

1. all Tax Tribunal cases are *de novo* in nature;
2. the standard of proof on all issues is a preponderance of the evidence; and
3. except as otherwise provided by law, the burden of proof in proceedings before the Tax Tribunal is upon the Petitioner.

616-1-3-.12 **INITIAL CONFERENCE AND PRE-TRIAL CONFERENCES:** This Rule provides for procedures for initial and pre-trial conferences with a goal of minimizing and expediting matters as well as scheduling and control of the progress of matter. The Rule also provides for permissive rules for the identification of documents, witnesses, and other evidence to be introduced at trial.

616-1-3-.13 **CONSOLIDATION; SEVERANCE:** This Rule addresses consolidation and severance of cases and permits the Tribunal Judge to combine or separate trials or hearings to expedite or simplify cases or issues.

616-1-3-.14 **REMANDS:** This Rule permits the Tribunal Judge to remand matters or cases to the Department of Revenue and provides that any remand does not divest the Tax Tribunal of jurisdiction of the case so remanded.

616-1-3-.15 **DISCOVERY:** This Rule provides that the Civil Practice Act applies to discovery in the Tax Tribunal and provides that the parties shall make every effort to conduct discovery informally before using discovery and depositions.

616-1-3-.16 **DEPOSITIONS; WRITTEN DIRECT TESTIMONY:** This Rule follows general civil practice procedure regarding the rules for the taking of depositions and also provides for depositions from written questions and provides detailed procedures for such depositions and written direct testimony.

616-1-3-.17 **MOTIONS:** This Rule addresses the filing of motions with the Tax Tribunal. It specifies all motions must be in writing and must state specifically the grounds on which they are based, must describe the action or order sought and must be served on the parties. It also specifies that responsive pleadings are due within ten (10) days of filing of the initial motion with the Tax Tribunal and that all motions must be filed at least ten (10) days prior to a hearing, unless otherwise ordered.

616-1-3-.18 **STIPULATIONS:** This Rule provides that the parties shall stipulate all relevant and non-privileged matters to the fullest extent possible.

616-1-3-.19 **MOTIONS FOR SUMMARY JUDGMENT:** This Rule provides for motions for summary judgment and provides that a response is due thirty (30) days of service of the motion. It provides for filing of affidavits and procedures for other documentation supporting such motions and the scheduling of hearings.

616-1-3-.20 **EVIDENCE; OFFICIAL NOTICE:** This Rule directs the Tribunal Judge to apply the rules of evidence as applied in the trial of civil nonjury cases in superior courts. The Rule also provides that with respect to Small Claims Division cases, the Tax Tribunal Judge may also consider evidence otherwise not generally admissible if of the type commonly relied upon by reasonably prudent persons in the conduct of their affairs.

616-1-3-.21 **CONSTITUTIONAL ISSUES:** This Rule provides that whenever any party raises issues under the Georgia or United States Constitution, the sections of any laws or rules constitutionally challenged must be stated with specificity. This Rule also provides that although the Tribunal Judge is not authorized to resolve constitutional challenges to statutes or rules, the Tribunal Judge may take evidence and make findings of fact relating to such challenges.

616-1-3-.22 **SUBPOENAS; NOTICES TO PRODUCE:** This Rule addresses procedures for obtaining and filing of subpoenas, generally providing that they must be filed at least five (5) days prior to the proceeding and shall further identify the witnesses in testimony sought. It provides that any fees and mileage shall be paid to the recipient of the subpoena in accordance with O.C.G.A. §§ 24-13-25 and 24-13-28.

616-1-3-.23 **PROCEDURE FOR HEARINGS AND TRIALS:** This Rule addresses the procedures for trial. It provides for challenges to the regularity of any process being taken at the outset of the hearing. This Rule requires that the Tribunal

Judge conduct fair and impartial hearings and take action to avoid unnecessary delay. It also specifies that the Tribunal Judge shall arrange for notice of the date and time, establish methods and procedures and generally conduct the matter in accordance with the rules applicable to trials in the State of Georgia. The Rule also permits alternative form of trials where all parties have consented.

616-1-3-.24 **RECORD OF HEARINGS AND TRIALS:** This Rule provides that all records of proceedings are available to the public except to the extent as required by law according confidentiality. The Rule also provides that all hearings and trials shall be recorded by electronic means or, if requested by a party, stenographically reported verbatim, except for Small Claims Division cases. The Rule provides that if a party desires to have a written transcript, the requesting party must bear all costs in having the written transcript prepared. It also provides for retention of documentary and physical evidence.

616-1-3-.25 **MOTIONS FOR RECONSIDERATION OR REHEARING:** This Rule provides for motions for reconsideration and rehearing. Under this Rule, a motion for reconsideration or motion for rehearing will only be considered if filed within ten (10) days from the entry of any order. It also specifies that motions for reconsideration or rehearing are not a precondition for appeal.

616-1-3-.26 **DEFAULT:** This Rule provides for the permissive entry of default judgments where a party fails to participate in any stage of the proceeding, a party fails to file a required pleading, or a party fails to comply with an order. The Rule also provides for the reopening of a default in certain circumstances upon motion if the Tribunal Judge determines that it was due to providential cause, excusable neglect, or that from all the facts that a proper case has been made to deny or open the default.

616-1-3-.27 **APPEALS FROM ORDERS OF THE TAX TRIBUNAL:** The Rule addresses appeals from the Tax Tribunal to the Superior Court of Fulton County. Such appeals are instituted by filing a petition with the Superior Court of Fulton County within thirty (30) days of after the service of the Tax Tribunal's final judgment or, if a timely motion for reconsideration or hearing is made, within thirty (30) days after the decision on that motion.

616-1-3-.28 **TRANSFER OF THE RECORD TO APPELLATE COURT:** This Rule provides for transfer of the record to the Superior Court of Fulton County within thirty (30) days of the filing of the petition for review.

616-1-3-.29 **PUBLICATION OF ORDERS OF THE TAX TRIBUNAL:** This Rule provides that all final judgments of the Tax Tribunal, except Small Claims

Division proceedings, shall be indexed and published in such form as the Tax Tribunal deems best adapted for public convenience.

616-1-3-.30 **APPEARANCE BY ATTORNEYS; SIGNING OF PLEADINGS:** This Rule requires that any attorney appearing before a Tax Tribunal Judge must be an active member in good standing of the State Bar of Georgia and has filed an entry of appearance. A separate appearance is not required where the name of the attorney is identified on the Petition or responsive pleading. Non-resident attorneys who are not active members of the State Bar of Georgia may be admitted to appear *pro hac vice* in isolated cases and in the discretion of the Tribunal Judge. The Rule also requires that in any motion to appear the non-resident attorney shall state the jurisdiction in which the nonresident attorney regularly practices and state that the nonresident attorney agrees to behave in accordance with the Georgia Standards of Professional Conduct and Duties Imposed on Attorneys in Georgia under O.C.G.A. § 151-19-4. The Rule also requires that any pleading, motion or other document shall be signed by at least one attorney of record in the attorney's individual name and that the signature by the attorney constitutes a certificate by the attorney that the attorney has read the pleading and that the pleading is not imposed for improper purposes including, but not limited to, delay or harassment. If a pleading, motion or other document is signed in violation of this rule, the Tribunal Judge may impose sanctions including, but not limited to, dismissal.

616-1-3-.31 **ATTORNEY WITHDRAWALS; LEAVES OF ABSENCE:** This rule specifies that attorneys shall follow the Uniform Rules of Superior Court for withdrawals and leaves of absence.