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May 27, 2003

Opinion No. 03-070

State Board of Equalization Procedures

QUESTION

If SB1526, as amended, passes, will non-lawyer agents be able to handle non-standard tangible personal property appeals at the county boards of equalization and then to the State Board of Equalization?

OPINION

Yes, if SB1526, as amended, passes, non-lawyer agents still will be able to represent taxpayers in valuation appeals to the county boards of equalization and the State Board of Equalization.

ANALYSIS

Senate Bill 1526, as amended, proposes to amend Tenn. Code Ann. § 67-5-902 by adding the following language to the end of the section:

> Documentation in support of a nonstandard value assessment sought by the taxpayer must be submitted by the taxpayer with a timely filed schedule, or if sought by the assessor, must be compiled by the assessor and placed in the assessor's records before the assessment is completed pursuant to § 67-5-504. Except as otherwise provided herein with regard to back assessments or reassessments, in any appeal involving a nonstandard value assessment, admissible evidence shall be limited to the documentation included with the timely filed schedule and any otherwise admissible documents or testimony offered as part of a timely appeal to the county board of equalization. Nonstandard value may not be the basis of an amended schedule under Section 67-5-903 or of a back assessment or reassessment under Section 67-5-1005 unless: (i) the taxpayer claimed a nonstandard value as the basis of the original assessment

> pursuant to this section, or (ii) in the case of a back assessment or reassessment, unless and only to the extent that a nonstandard value for a particular item or group of property will serve to offset additional liability discovered with respect to that item or group of property as the result of an audit.

The purpose of the proposed legislation appears to be to preclude the parties from raising a nonstandard value assessment issue in administrative proceedings before the State Board of Equalization unless the issue was raised, either by the assessor or by the taxpayer, at the time of assessment and on appeal to the county board of equalization. To that end, SB1526 limits the evidence that is admissible before the State Board to "the documentation included with the timely filed schedule and any otherwise admissible documents or testimony offered as part of a timely appeal to the county board of equalization." Senate Bill 1526 does not expressly apply to judicial review proceedings conducted in chancery court pursuant to Tenn. Code Ann. § 67-5-1511(b). That statute permits either party to present additional or supplemental evidence when one of the parties seeks judicial review of a Board decision in chancery court.

Such a statute would have no effect on a taxpayer's right to be represented by a non-lawyer agent pursuant to Tenn. Code Ann. § 67-5-1514 in valuation appeals to the county boards of equalization and the State Board of Equalization. In any event, a taxpayer's right to be represented by a non-lawyer agent is not dependent upon the availability of a *de novo* review in chancery court. There is no provision, either constitutional or statutory, that precludes judicial review of administrative records created by non-lawyers.

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Requested by:

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