

1 SENATE BILL 138

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO TAX ADMINISTRATION; EXPANDING THE TYPES OF PROTESTS
12 AT WHICH ENROLLED AGENTS MAY REPRESENT TAXPAYERS IN
13 ADMINISTRATIVE HEARINGS OFFICE HEARINGS; DEFINING "ENROLLED
14 AGENT".

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16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. Section 7-1B-8 NMSA 1978 (being Laws 2015,
18 Chapter 73, Section 8) is amended to read:

19 "7-1B-8. TAX PROTESTS--PROCEDURES.--

20 A. Upon timely receipt of a tax protest filed
21 [~~pursuant to the provisions of~~] in accordance with Section
22 7-1-24 NMSA 1978, the taxation and revenue department shall
23 promptly acknowledge the protest by letter to the protesting
24 taxpayer or the taxpayer's representative. If the protest is
25 not filed in accordance with [~~the provisions of Section 7-1-24~~

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1 ~~NMSA 1978]~~ that section, the department shall inform the
2 taxpayer of the deficiency and the opportunity to correct it.
3 Within forty-five days after receipt of a protest that was
4 filed ~~[pursuant to the provisions of Section 7-1-24 NMSA 1978]~~
5 in accordance with that section and that has not been resolved,
6 the ~~[taxation and revenue]~~ department shall request from the
7 administrative hearings office a hearing and shall send to the
8 office a copy of the protest. The chief hearing officer shall
9 then promptly designate a hearing officer and shall set a date
10 for a hearing to take place within ninety days after receipt of
11 ~~[a]~~ the protest ~~[filed pursuant to Section 7-1-24 NMSA 1978]~~.

12 B. A taxpayer may appear at the hearing on the
13 taxpayer's own behalf or may be represented by a bona fide
14 employee, an attorney, a certified public accountant or ~~[with~~
15 ~~respect only to tax imposed pursuant to the Income Tax Act, a~~
16 ~~person who is]~~ an enrolled agent ~~[for federal income tax~~
17 ~~purposes]~~. If the taxation and revenue department and the
18 taxpayer agree, the hearing may be conducted via
19 videoconference. At the beginning of the hearing, the hearing
20 officer shall inform the taxpayer of the taxpayer's right to
21 representation. A hearing shall not be open to the public
22 except upon request of the taxpayer. A hearing officer may
23 postpone or continue a hearing at the hearing officer's
24 discretion. As used in this subsection, "enrolled agent" means
25 a federally licensed tax practitioner with unlimited rights to

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underscoring material = new
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1 represent taxpayers before the internal revenue service.

2 C. Within thirty days after the hearing, the
3 hearing officer shall inform the taxation and revenue
4 department and the taxpayer in writing of the decision and,
5 ~~[pursuant to the provisions of]~~ in accordance with Section
6 7-1-25 NMSA 1978, of the aggrieved party's right to, and the
7 requirements for perfection of, an appeal from the decision to
8 the court of appeals and of the consequences of a failure to
9 appeal. The written decision shall embody an order granting or
10 denying the relief requested or granting or denying a part of
11 the relief requested, as appropriate.

12 D. A taxpayer with two or more protests containing
13 related issues may request that the protests be combined and
14 heard jointly. The hearing officer shall grant the request to
15 combine protests unless it would create an unreasonable burden
16 on the administrative hearings office or the taxation and
17 revenue department.

18 E. Nothing in this section shall be construed to
19 authorize a criminal proceeding or to authorize an
20 administrative protest of the issuance of a subpoena or
21 summons."