

Briefing on Representation Before the County and State Tax Appeal Boards  
For the Senate Joint Resolution No. 23 Study

Prepared for the Revenue and Transportation Interim Committee  
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This briefing provides background information on who may represent a taxpayer before the county and State Tax Appeal boards. The information is part of the Revenue and Transportation Interim Committee's Senate Joint No. 23 study of the taxpayer appeal process.

#### County Tax Appeal Board

Sections [15-15-102](#) and [15-15-103](#) address application and hearing procedures for taxpayers who appeal their property valuation to a county tax appeal board. Both sections refer to "the taxpayer's agent." In section [15-15-102](#), the taxpayer or the taxpayer's agent must file a written application in order for the county tax appeal board to consider a reduction in value. Section [15-15-103](#) provides that the county tax appeal board must "examine on oath the person or agent making the application..." The "agent" is also referred to later in the section in relation to exhaustion of county tax appeal board remedies and attendance at the hearing.

"Agent" is not a defined term for this section of law. Merriam-Webster's website defines "agent" as "a person who does business for another person" or "a person who acts on behalf of another." If the taxpayer appeals the county tax appeal board decision, the State Tax Appeal Board generally conducts a new hearing which is discussed in the next section.<sup>1</sup>

#### State Tax Appeal Board

The State Tax Appeal Board hears appeals of county tax appeal board decisions and direct appeals of Department of Revenue decisions related to centrally assessed property valuation and income, corporate income, and other taxes administered by the Department. The hearing procedures outlined in statute for these two types of appeals is different. However, the applicable rules for representation are the same.

#### Direct Appeals

Appeals for centrally assessed property and final decisions of the Department are provided for in section [15-2-302](#). Subsection (4) provides that these appeals are required to be conducted in accordance with the contested case provisions of the Montana Administrative Procedure Act (MAPA).

Administrative Rule [1.3.231](#) is a model rule in the subchapter called "Attorney General's Organizational and Procedural Rules Required by the Montana Administrative Procedure Act." The rule is reproduced below and addresses the right to representation for an individual appearing before a state agency and the requirement that a corporation appearing before an agency be represented by an attorney.

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<sup>1</sup>Section [15-2-301](#) allows the State Tax Appeal Board to determine the appeal on the record if all parties are provided with a copy of the transcript and given the opportunity to submit additional sworn testimony. This does not seem to be common practice, however.

### 1.3.231 GENERAL PROVISIONS, REPRESENTATION

(1) A person appearing before the agency has the right to be accompanied, represented, and advised by counsel. The agency should advise a party to a contested case of the right to counsel.

(2) A corporation appearing before an agency is considered a separate legal entity and may not appear on its own behalf through an agent other than an attorney.

### Property Tax Appeals

Appeals of county tax appeal board decisions are provided for in section [15-2-301](#). The section does not specifically address who may represent a taxpayer; however, subsection (4) indicates "the state board is not bound by common law and statutory rules of evidence or rules of discovery and may affirm, reverse, or modify any decision." Additionally, to "the extent that [section [15-2-301](#)] is in conflict with the Montana Administrative Procedure Act, [section [15-2-301](#)] supersedes that act." There is no discussion of representation in the section.

### Taxpayer Bill of Rights

The Taxpayer Bill of Rights, contained in section [15-1-222](#), provides in subsection (2) that "the taxpayer has the right to hire a representative of the taxpayer's choice to represent the taxpayer's interests before the department or any tax appeal board." The term "representative" is undefined in this section of law.

### Judicial Review

The two sections discussed above, [15-2-301](#) and [15-2-302](#), each provide for judicial review of State Tax Appeal Board decisions. Judicial review of hearings under MAPA is provided for in section [2-4-704](#) and requires that the review be confined to the record. Section [15-2-303](#) does allow the court to permit additional evidence "for good cause shown." These sections do not address representation but make clear that the State Tax Appeal Board is the court of record for tax appeals.