

# New York State Bar Association

One Elk Street, Albany, New York 12207 • 518/463-3200 • <http://www.nysba.org>



**Ronald F. Kennedy**, *Director* • *Department of Governmental Relations* • (FAX) 518/487-5579

March 21, 2017

Hon. Andrew M. Cuomo  
Governor of New York State  
Capitol Building  
Albany, New York 12224

Re: 2017-18 Budget Bill, S.2006/A.3006 – Consolidation of Administrative Hearings

Dear Governor Cuomo:

I am submitting herewith for your consideration materials developed by the State Bar Association's Tax Section, relating to the proposal to consolidate administrative hearings, which was included in your Executive Budget proposal as Part U of S.2006/A.3006.

Thank you for your attention to this matter.

Sincerely,

Ronald F. Kennedy

ccs:

Hon. Catharine Young, Chair  
Senate Finance Committee  
428 Capitol  
Albany, NY 12247

Hon. John J. Flanagan  
Majority Leader, NYS Senate  
Room 330, State Capitol Building  
Albany, NY 12247

Roberta Moseley Nero, President  
NYS Tax Appeals Tribunal  
1290 Avenue of The Americas  
New York, NY 10104

Robert Mujica, Director  
New York State Division of the Budget  
State Capitol, Room 335  
Albany, NY 12247

Hon. Carl E. Heastie  
Assembly Speaker  
LOB 932  
Albany, NY 12248

Hon. Brian M. Kolb  
Assembly Minority Leader  
LOB 933  
Albany, NY 12248

Hon. Herman D. Farrell, Jr., Chair  
Assembly Ways and Means Committee  
Chairman's Office  
State Capitol, Room 923/342  
Albany, NY 12248

Nonie Manion  
Acting Commissioner  
NYS Dept. of Taxation and Finance  
Governor Averill Harriman State Office Campus  
Building 9  
Albany, NY 12227



# NEW YORK STATE BAR ASSOCIATION

One Elk Street, Albany, New York 12207 PH 518.463.3200 www.nysba.org

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March 21, 2017

Ronald Kennedy  
Director of Governmental Relations  
New York State Bar Association  
One Elk Street  
Albany, New York 12207

Re: Fiscal Year 2018 Budget Bill S02006/A03006 – Consolidation of Administrative Hearing

Dear Mr. Kennedy:

We are writing this letter and the attached Report to express our concern regarding certain aspects of Budget Bill S02006/A03006, which would consolidate substantially all administrative hearing functions now conducted by executive agencies within one central administrative hearings body. As currently written, the Bill excludes only the department of law and the department of audit and control. We recommend an expansion of this list to also exclude the administrative hearing functions within the Department of Taxation and Finance's Division of Tax Appeals.

The Division has performed its role admirably for 30 years, and has served as a model for other states. Its proceedings are regarded by both the Department and taxpayers as impartial, fair and timely. Hearings are conducted before qualified, knowledgeable administrative law judges, with appeals available to a dedicated three-member tax tribunal. The tax expertise of the Division's judges and Tribunal members is a critical part of its success. Tax issues are complex and technical and it is important that they be adjudicated by tax specialists, not generalists.

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The attached Report provides a more thorough discussion of the current structure, the Budget proposal, our concerns, and our recommended modification. There is no reason to restructure the tax adjudicatory process and we strongly recommend that the Division of Tax Appeals process be excluded from the proposed restructuring of administrative hearings.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Farber", written in a cursive style.

Michael Farber, Chair