

Q: If I appeal the Department's *Final Order*, what are the differences between the Board of Tax and Land Appeals and the Superior Court?

A: Most types of appeals, such as Business Tax, Meals and Rentals or Tobacco Tax, Interest and Dividend Tax, and others, may be appealed to either the Board of Tax and Land Appeals (BTLA) or the Superior Court for the county in which you reside or your business is located. The BTLA is less formal than the Superior Court and it operates under rules similar to those in the administrative appeal before the Department's Hearings Bureau. Therefore, it is a forum independent of the Department where a taxpayer may more easily represent himself or herself. The filing fee (\$65) is also less than in Superior Court (\$125). The Superior Court is a court of record where the formal rules of evidence apply. For most appeals, the BTLA appeal may be faster than one to the Superior Court. Whether the appeal is to the BTLA or the Superior Court, the decision of either tribunal may be further appealed to the N.H. Supreme Court.

Q: How do I get to the Hearings Bureau?

A: The Hearings Bureau is located in Concord at 109 Pleasant Street.

From Southern New Hampshire (via I-93 North): Take I-93 North to Exit 14 (Loudon Road) and turn left at the end of the ramp. At the fourth traffic light, turn left onto Main Street. At the first traffic light, turn right onto Pleasant Street. Go straight through three sets of traffic lights and turn left at the HUGH J GALLEN STATE OFFICE PARK. From there, turn right and follow the signs to the Department of Revenue Administration (M&S Building).

From Northern New Hampshire (via I-93 South): Take I-93 South to Exit 14 (Loudon Road) and turn right at the end of the ramp. At the second traffic light, turn left onto Main Street. At the first traffic light, turn right onto Pleasant Street. Go straight through three sets of traffic lights and turn left at the HUGH J GALLEN STATE OFFICE PARK. From there, turn right and follow the signs to the Department of Revenue Administration (M&S Building).

From Western New Hampshire (via I-89 South): Take I-89 South to Exit 2 (Clinton Street) and turn right at the end of the ramp. At the first traffic light, turn left onto Fruit Street. At the traffic lights at the five-way intersection, turn right onto Pleasant Street. Turn right again at the HUGH J GALLEN, STATE OFFICE PARK. From there, turn right and follow the signs to the Department of Revenue Administration (M&S Building).

From Eastern New Hampshire (via Route 4): Take Route 4 West to I-393 West. Go to the end and turn left onto Main Street. At the fourth traffic light, turn right onto Pleasant Street. Go straight through three sets of traffic lights and turn left at the HUGH J GALLEN, STATE OFFICE PARK. From there, turn right and follow the signs to the Department of Revenue Administration (M&S Building).

ADMINISTRATION, 109 Pleasant St, Concord, NH 03302-0457 (603) 271-2318 Fax (603) 271-6121

AUDIT DIVISION, 109 Pleasant St, PO Box 457, Concord, NH 03302-0457 (603) 271-3400 Fax (603) 271-6146

CENTRAL TAXPAYER SERVICE, 109 Pleasant St, Concord, NH 03301 (603) 271-2191

COLLECTION DIVISION, 109 Pleasant St, PO Box 454, Concord, NH 03302-0454 (603) 271-3701 Fax (603) 271-1756

DISCOVERY BUREAU, 109 Pleasant St, PO Box 457, Concord, NH 03302-0457 (603) 271-8454

DOCUMENT PROCESSING DIVISION, 109 Pleasant St, PO Box 637, Concord, NH 03302-0637 (603) 271-2191

HEARINGS BUREAU, 109 Pleasant St, PO Box 1467, Concord, NH 03302-1467 (603) 271-1304

MUNICIPAL SERVICES DIVISION, 109 Pleasant St, PO Box 487, Concord, NH 03302-0487 (603) 271-3397 Fax (603) 271-1161

PROPERTY APPRAISAL DIVISION, 109 Pleasant St, PO Box 487, Concord, NH 03302-0487 (603) 271-2687 Fax (603) 271-1161

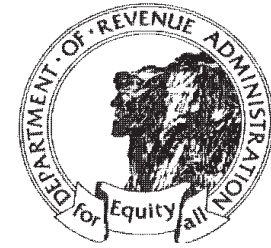
TAXPAYER ADVOCATE, 109 Pleasant St, Concord, NH 03302-0457 (603) 271-8481

Individuals who need auxiliary aids for effective communications in programs and services of the New Hampshire Department of Revenue Administration are invited to make their needs and preferences known. Individuals with hearing or speech impairments may call TDD Access: Relay NH 1-800-735-2964.

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF REVENUE ADMINISTRATION
(603) 271-2191**

**FREQUENTLY ASKED QUESTIONS
(FAQ's)**

**HEARINGS BUREAU
RSA 21-J REV 200**



Kevin A. Clougherty, Commissioner

The New Hampshire Department of Revenue Administration offers this publication of answers to the most frequently asked questions. While we have attempted to identify the most common concerns, this publication does not address every situation, set of facts, or circumstances. Our goal is to develop a tax administration system that is fair and efficient, with taxpayers having the highest degree of confidence in the integrity of the Department.

Visit us on the web at:
www.nh.gov/revenue

Q: What is the Hearings Bureau?

A: The Hearings Bureau is an agency within the Department which provides a forum for appeals by taxpayers dissatisfied with a decision of the Commissioner for the Department of Revenue Administration. It provides the final administrative opportunity for a taxpayer to confidentially present reasons why the Department's action is improper and for the Department to impartially evaluate those reasons and change its decision, if applicable. Appeals are described in the *Taxpayer Bill of Rights*. If the Department denies your claim for refund, your request for abatement of penalties or interest, or you do not agree with the assessment of additional tax, penalties or interest, you have the right to petition for reconsideration or redetermination which are the types of an appeal provided by law.

Q: How do I appeal?

A: You must file a written petition with the Hearings Bureau within 60 days from the date of the written notice of assessment or denial. Your petition must be signed, in ink, by you or a person you have authorized to sign for you by Power of Attorney. It must contain the following information:

- (a) Your name or business, as applicable, address, social security or federal identification number, or department license number;
- (b) Name and address of your representative, if any;
- (c) A concise statement of the facts and issues involved, and the tax year involved;
- (d) The action you wish the department to take;
- (e) The identification of any statutes, rules, orders, cases, or other authority that entitles you to have the Department act as requested; and
- (f) A copy of the Notice(s) of Assessment.

You may file your petition by delivering it to the Department during normal business hours or by mailing it to the following address: Hearing Officer
NH Dept. of Revenue Admin.
109 Pleasant St, PO Box 1467
Concord, NH 03302-1467

A petition sent by mail will be considered timely filed if placed in the United States mail and postmarked on or before the expiration of the 60 day period.

Q: Who do I contact with questions?

A: If you have further questions about the administrative hearings process within the Department, please call the Hearings Bureau at 603-271-1304.

Q: Can I represent myself?

A: Yes, you can represent yourself or have a representative such as a friend, accountant or lawyer represent you. You must authorize a representative to represent you by filing a *Power of Attorney* form with the Hearings Bureau or the Department. The forms are available from either the Hearings Bureau, the Department, or the website at: www.nh.gov/revenue.

Q: How does the appeal process work and how long does it take?

A: The following outlines the administrative appeal hearing process:

- Department issues a tax notice (assessment of taxes, interest or penalties), or denial of refund.
- Within 60 days: The taxpayer files a written Petition for Redetermination or Reconsideration with the Hearings Bureau.
- The Hearings Bureau refers the Petition to the appropriate Division of the Department for a response within 120 days, as required by state law.
- Within 120 days: The Division files its written response to the Petition either denying the requested action, or agreeing to all or some of the taxpayer's request, and providing its reasons. A copy is sent to the taxpayer.
- If the Division denies the taxpayers request, in whole or in part, the Hearings Bureau schedules a date for a live adjudicative hearing and provides 60 days advance written notice of the date, time, place, and a brief summary of the issues to be decided by the hearing.
- All evidence must be submitted to the Hearings Bureau at least 30 days before the hearing to be admissible at the hearing.
- The hearing is held, or the taxpayer may waive a live adjudicative hearing and request a *Final Order* be issued based on further written submissions or the record as it then stands. Time may be provided for additional written submissions if requested by the taxpayer or the Division before the record is closed.
- A *Final Order* is issued within approximately 60 days by the Hearings Officer, and written notice of the taxpayer's appeal rights outside the Department is provided.

The entire administrative appeal process takes approximately one year due to the time frames for each step provided by state law. It can be accomplished more quickly in some cases, or it may take longer if the taxpayer wishes to enter into settlement negotiations with the Division involved.

Q: Can I settle my appeal directly with the Department before having a hearing?

A: Yes. Your hearing request does not prohibit you from communicating with the concerned Division. If a hearing has been scheduled and you would like more time to negotiate with the concerned Division you may file a motion with the Hearings Bureau to reschedule the hearing. Settlement discussions are always encouraged and may be helpful to the taxpayer and the Department. Your right to have a hearing is not affected by settlement negotiations if they are not successful.

Q: How are hearings conducted?

A: Hearings may be of the trial-type evidentiary hearing where the Petitioner bears the burden of proof by a preponderance of the evidence similar to those conducted in court, or may consist of oral argument or testimony only, depending on the issues to be resolved and the nature of the evidence to be presented, such as when the evidence consists of only documents. The formal rules of evidence do not apply.

There is a structure to the hearings, but every attempt is made to make them as informal and comfortable for the participants as possible, consistent with reasonable decorum and orderly presentation of the evidence and arguments to be considered. Hearings are not conducted in a courtroom and are presided over by a Hearing Officer who need not be addressed in the same way as a judge in court. Live witness testimony is taken under oath or affirmation. The procedure for hearings is, basically, as follows:

- The Petitioner makes an opening statement and/or presents witnesses, testimony or other evidence. The Division may cross-examine the Petitioner and any witnesses.
- The Division makes an opening statement and/or presents witnesses, testimony or other evidence. The Petitioner may cross examine the Division representatives or witnesses.
- The Petitioner may summarize the appeal with a closing statement.
- The Division may summarize the appeal with a closing statement.

The Petitioner bears the burden of proof by a preponderance of the evidence. All hearings are audio recorded and you may obtain a copy of that recording for the cost of copying it.

The hearing process is more fully described in rules adopted, pursuant to state law by the Commissioner of Revenue Administration as N.H. Code of Administrative Rules part Rev 200. These are available by visiting the State Library or the Department's web site at www.nh.gov/revenue

Q: Do I have to pay an assessment by the Department before I can request a hearing?

A: No. However, if you pay a tax notice (assessment), interest stops accruing and you will save money whether your appeal is successful or not. If you are successful, that portion of the disputed assessment will be refunded to you.

Q: What can I do if I disagree with the final decision I receive from the Hearings Bureau?

A: If you do not agree with the final decision you receive from the Hearings Bureau, you have the right to appeal, within 30 days of the notice of the decision, by petitioning the Board of Tax and Land Appeals or the Superior Court in the county in which you reside or have a place of business. Certain other appeals, such as those involving Meals and Rentals Tax Operators have different time frames for appeals (10 days to the Superior Court in the county where the business is located or the Board of Tax and Land Appeals). These appeal rights are also outlined, in writing, with the final decision.