

How to Appeal a DRA Tax Notice

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How to Appeal a DRA Tax Notice

This presentation is intended for informational purposes only, and is not a substitute for seeking professional advice or for reviewing the applicable laws and rules. This presentation represents some positions of the Department on the limited issues discussed herein, based on the law in effect at the time of the presentation and Department interpretation thereof, as well as the opinions and conclusions of its presenter.

For the current status of any tax law, practitioners and taxpayers should consult the source documents (i.e., Revised Statutes Annotated, Rules, Case Law, Session Laws, etc.) for independent verification.

How to Appeal a DRA Tax Notice

Step 1

- If you do not agree with a tax notice (i.e. Notice of Assessment; Notice of Credit Adjustment; Denial of Refund Letter; Notice of Refund; Notice of Value and Tax Bill; or Denial to Process Return letter) issued by a Division at the DRA, you may appeal pursuant to RSA 21-J:28-b, within 60 days.

Step 2

- If you filed your appeal on time, the Hearings Bureau sends you a confirmation letter, and sends a copy of the confirmation letter and a copy of your appeal to the appropriate Division. The Division has 120 days to respond to your appeal pursuant to RSA 541-A:29.
- If you did not file your appeal on time, the Hearings Bureau sends you a letter asking you to provide proof that you filed on time, and if you cannot provide proof, the appeal is dismissed.

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Step 3

- During the 120-day period, the Division reviews your appeal to determine whether you are correct, whether the appeal can be resolved by agreement, or whether the appeal needs to proceed to a hearing.

Step 4

- At the end of the 120-day period, if the issues you raise in your appeal have not been resolved, then the Division is required to file a 120-day response with the Hearings Bureau, stating what the contested issues are and that a hearing is needed.

Step 5

- Once the Hearings Bureau receives the 120-day response from the Division, the Hearing Officer prepares and mails out a Notice of Hearing, giving the parties at least 60 days notice before the scheduled hearing.

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Step 6

- Any evidence that the parties want the Hearing Officer to consider must be submitted no later than 30 days prior to the date of the final hearing, which is referred to as a 30-day submission.

Step 7

- Each party is then provided with an opportunity to respond to the other party's submission, which must be filed no later than 15 days prior to the date of the final hearing, which is referred to as a 15-day submission or response.

Step 8

- At the final hearing, you generally have the burden of proof to show that the Division erred, although there are some instances where the burden has been shifted to the Division by statute.

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Step 9

- The parties may present their cases through oral argument, testimony, or any documents or evidence contained in the parties 30-day or 15-day submissions.

Step 10

- During the hearing, questions may arise in which clarification is needed in order for the Hearing Officer to make a determination. The Hearing Officer may allow the record to remain open for post-hearing submissions by issuing an Order on Post-Hearing Submissions, stating the nature of the submissions and the deadlines for submissions.

Step 11

- If there are no post-hearing submissions, the record in the case closes at the end of the hearing. If there are post-hearing submissions, the record in the case closes as stated in the Order on Post-Hearing Submissions issued by the Hearing Officer.

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Step 12

- After the close of the record, the Hearing Officer reviews the written documents, the hearing recording of oral argument and testimony, and all relevant statutes, cases and regulations. The Hearing Officer prepares a Final Order, and submits it to the Commissioner for review.

Step 13

- After the Final Order is approved and signed by the Commissioner, the Hearing Officer issues the Final Order to you by First Class U.S. Mail, Certified, Return Receipt requested, and a copy is provided to the appropriate Division.

Step 14

- Each of the parties, yourself and the appropriate Division, have 15 days from the date of the Final Order to file a Motion to Reconsider under N.H. Code of Admin. Rules, Rev. 206.02. Each party has 15 days to respond or object to the other party's Motion to Reconsider.

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Step 15

- Once the 15 day period to respond has passed, the Hearing Officer reviews the pleadings and the record, and drafts an Order on the Motion to Reconsider. This is submitted to the Commissioner for review.

Step 16

- After the Order on the Motion to Reconsider is approved and signed by the Commissioner, the Hearing Officer issues the Order on the Motion to Reconsider to you by First Class U.S. Mail, Certified, Return Receipt requested, and a copy is provided to the appropriate Division.

Step 17

- Once the Order on the Motion to Reconsider has been issued, you have 30 days from the date of the Order on the Motion to Reconsider to file an appeal to the Board of Tax and Land Appeals or to Superior Court in the county in which you reside or do business.

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Step 18

- If neither party files a Motion to Reconsider, you have 30 days from the date of the Final Order to file an appeal to the Board of Tax and Land Appeals or to Superior Court in the county in which you reside or do business.

Step 19

- If you do not file an appeal with the Board of Tax and Land Appeals or Superior Court, the Final Order and/or the Order on the Motion to Reconsider is final.