

TITLE 16. TAX APPEALS

CHAPTER 3. STATE BOARD OF TAX APPEALS
LUXURY, TRANSACTION PRIVILEGE (SALES), USE, ESTATE, INCOME

(Authority: A.R.S. § 42-141 et seq.)

ARTICLE 1. TAX APPEAL PROCEDURES

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ARTICLE 1. TAX APPEAL PROCEDURES

R16-3-101. Definitions

For purposes of this Article:

1. "Appellant," unless otherwise noted, means a taxpayer or the representative of a taxpayer, or other person or entity directly interested who is legally entitled to initiate proceedings before the Board.
2. "Board" means the State Board of Tax Appeals.
3. "Clerk" means the Clerk appointed by the Board to carry out the duties established by A.R.S. § 42-1252.
4. "Commission" means the Municipal Tax Code Commission.
5. "Day" means a calendar day. If the last day for filing a document under the provisions of this Article falls on a Saturday, Sunday, or legal holiday, the document is considered timely if filed on the following business day.
6. "Department" means the Arizona Department of Revenue.
7. "Hearing Officer" means a person appointed by the Board to take oral testimony and other evidence, make recommendations, and carry out the duties of the Board established by A.R.S. § 42-1252.
8. "Memorandum" means a document that supports a party's position.
9. "Notice of appeal" means a written request for correction or redetermination, including all applicable attachments.
10. "Notice of determination" means a written notification of a final decision or order issued by the Department or any other governmental entity from which an appeal to the Board may be taken.

11. "OAH" means Office of Administrative Hearings as established by A.R.S. § 41-1092.01.
12. "Quorum" means two members of the Board.
13. "Supporting authorities" means cases and authorities cited and relied on by a party.

Historical Note

Adopted effective December 30, 1974 (Supp. 75-1).
 Amended effective January 7, 1977 (Supp. 77-1).
 Amended effective August 27, 1980 (Supp. 80-4). Section repealed; new Section made by final rulemaking at 8 A.A.R. 836, effective February 7, 2002 (Supp. 02-1).

R16-3-102. Notice of Appeal

- A. The Appellant shall sign the notice of appeal and mail or deliver the original and six copies to the Board's office in Phoenix, Arizona. The Board shall consider a notice of appeal received by mail filed on the date shown by its postmark. In the absence of a legible postmark, the Board shall determine whether an appeal was timely filed.
- B. The Appellant shall legibly type, write, or print the notice of appeal and include the following information:
 1. The Appellant's name, address, and telephone number. If there is a difference between the name on the notice of determination and the name on the notice of appeal, the notice of appeal shall contain an explanation of the difference;
 2. The amount of money involved in the Department's determination, the type of tax, the year or other period for which the determination was made, and, if different from the determination, the approximate amount of money at issue in the appeal;
 3. A statement of issues involved in the appeal;
 4. A statement of errors the Appellant alleges the Department committed in the determination;
 5. The relief sought; and
 6. Whether a hearing is requested. The Appellant may waive a previously requested hearing within 10 days after the due date of the reply memorandum.
- C. The Appellant shall file six copies of the notice of determination and any findings of fact or conclusions of law issued by the Department or the OAH with the notice of appeal.
- D. The Appellant shall file the notice of appeal not more than 30 days after the final decision or order of the Department or the OAH becomes final.
- E. In addition to the requirements in subsections (A) through (D), a notice of appeal regarding reimbursement for fees or other costs shall include six copies of the following:
 1. The application that was submitted to the Department for reimbursement of fees or other costs.
 2. Documentation of payment of fees or other costs.
- F. If the notice of appeal is filed by a person aggrieved by an order or decision of the Municipal Tax Code Commission, the Appellant shall file a signed notice of appeal within 30 days after receiving the Commission's notice of the order or decision. The notice of appeal shall include the following information:
 1. The name and address of each municipality;
 2. The Appellant's name, address, and telephone number;
 3. The applicable tax rate of each municipality;
 4. A statement of issues involved in the appeal;

5. The relief sought; and
6. Whether a hearing is requested.

- G. The Appellant shall submit six copies of any municipal ordinance involved in the appeal.

Historical Note

Adopted effective December 30, 1974 (Supp. 75-1).
Amended effective January 7, 1977 (Supp. 77-1).
Amended effective August 27, 1980 (Supp. 80-4). Section repealed; new Section made by final rulemaking at 8 A.A.R. 836, effective February 7, 2002 (Supp. 02-1).

R16-3-103. Incomplete Notice of Appeal

- A. If the Appellant files a timely notice of appeal that is incomplete, the Clerk shall grant the Appellant 15 days to perfect the appeal.
- B. Upon written request, the Clerk shall grant the Appellant a reasonable extension of time to comply with the provisions of this Section for good cause shown.
- C. The Board may dismiss an appeal or exclude supplemental information for the Appellant's failure to act in a timely manner.

Historical Note

Adopted effective December 30, 1974 (Supp. 75-1).
Amended effective January 7, 1977 (Supp. 77-1). Former Section R16-3-103 renumbered and amended as Section R16-3-111, former Section R16-3-105 renumbered and amended as Section R16-3-103 effective August 27, 1980 (Supp. 80-4). Section repealed; new Section made by final rulemaking at 8 A.A.R. 836, effective February 7, 2002 (Supp. 02-1).

R16-3-104. Memoranda, Waivers, and Supporting Authorities

- A. Each party shall file an original and six copies of any memorandum filed with the Board. The Board shall provide a copy to the opposing party.
- B. A party may waive in writing the right to file a memorandum any time before the memorandum is due.
- C. The Appellant shall file a memorandum of not more than 15 pages that addresses the facts and law in support of the appeal within 20 days after filing the notice of appeal.
- D. The Department shall file a response memorandum of not more than 15 pages within 20 days after receiving the Appellant's memorandum or waiver.
- E. The Appellant may file a reply memorandum of not more than 10 pages within 15 days after receiving the Department's memorandum. The Appellant's reply memorandum shall only address the issues of law or fact raised in the Department's memorandum.
- F. Each party shall file six copies of cited supporting authorities at the time the party files a memorandum.
- G. Upon written request, the Board may grant a reasonable extension of time for filing a memoranda upon good cause shown.

Historical Note

Adopted effective December 30, 1974 (Supp. 75-1).
Amended effective January 7, 1977 (Supp. 77-1). Former Section R16-3-104 renumbered and amended as Section R16-3-112, former Sections R16-3-106 and R16-3-107 renumbered and amended as Section R16-3-104 effective August 27, 1980 (Supp. 80-4). Section repealed; new Section made by final rulemaking at 8 A.A.R. 836, effective February 7, 2002 (Supp. 02-1).

R16-3-105. Stipulation or Statements of Fact

At the Board's request, the parties shall file a stipulation or separate statements of fact with any supporting affidavits or exhibits, listing

the facts upon which they agree, the facts that are in dispute, and the reasons for the dispute. If there are no facts in dispute, this should be stated in the stipulation or statements.

Historical Note

Adopted effective December 30, 1974 (Supp. 75-1).
Former Section R16-2-105 repealed, new Section R16-3-105 adopted effective January 7, 1977 (Supp. 77-1).
Former Section R16-3-105 renumbered and amended as Section R16-3-103, former Section R16-3-108 renumbered and amended as Section R16-3-105 effective August 27, 1980 (Supp. 80-4). Section repealed; new Section made by final rulemaking at 8 A.A.R. 836, effective February 7, 2002 (Supp. 02-1).

R16-3-106. Dismissal, Withdrawal, or Suspension of Appeal

- A. If the Board lacks jurisdiction regarding an appeal, the Board shall dismiss the appeal on its own motion or on motion by the Department.
- B. The Appellant may withdraw an appeal upon written notification to the Board or by the parties' written stipulation at any time before the Board issues its decision.
- C. The Board may suspend proceedings for a reasonable period of time at the written request of either party, the written stipulation of the parties, or its own discretion.

Historical Note

Adopted effective December 30, 1974 (Supp. 75-1).
Former Section R16-3-106 repealed, new Section R16-3-106 adopted effective January 7, 1977 (Supp. 77-1).
Former Section R16-3-106 renumbered and amended as Section R16-3-104, former Section R16-3-109 renumbered and amended as Section R16-3-106 effective August 27, 1980 (Supp. 80-4). Section repealed; new Section made by final rulemaking at 8 A.A.R. 836, effective February 7, 2002 (Supp. 02-1).

R16-3-107. Request for Hearing

- A. The Board shall schedule a hearing at the written request of either party. Either party may waive appearance, in writing, at least 10 days before the hearing.
- B. A hearing officer or one or more members of the Board shall hold the hearing, taking testimony and other evidence.
- C. The Board shall send a written notice to the parties of the date, time, and location of the hearing at least 20 days before the hearing. The Board shall ordinarily schedule one hour hearings. Upon written request, and after consideration of the hearing schedule, the Board may grant a party additional time for the hearing if the request is filed with the Clerk within 10 days after the due date of the reply memorandum.
- D. The Board may postpone, continue, or cancel a hearing for good cause upon the written request of either party if the request is submitted at least 10 days before the hearing.
- E. If a hearing is not requested, the Board shall consider the appeal submitted for decision based on the record.

Historical Note

Adopted effective December 30, 1974 (Supp. 75-1).
Amended effective January 7, 1977 (Supp. 77-1). Former Section R16-3-107 renumbered and amended as Section R16-3-104, former Section R16-3-110 renumbered and amended as Section R16-3-107 effective August 27, 1980 (Supp. 80-4). Section repealed; new Section made by final rulemaking at 8 A.A.R. 836, effective February 7, 2002 (Supp. 02-1).

R16-3-108. Hearing Procedure

- A. A hearing shall ordinarily proceed in the following manner:
 1. The Appellant may make an opening statement.

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2. The Department may make an opening statement or reserve its opening statement until the close of the Appellant's case.
 3. The Appellant shall state its position and present its arguments and evidence.
 4. The Department may make a previously-reserved opening statement, state its position, and present its arguments and evidence.
 5. The Appellant may make a closing statement, presenting final arguments.
 6. The Department may make a closing statement, presenting final arguments.
 7. The Appellant may reply to the Department's closing statement or final arguments.
- B.** The Board may direct a party to submit an additional memorandum or information within a reasonable period of time. The Board shall grant the opposing party a reasonable period of time to respond to the additional memorandum or information.
- C.** The Board may recess or continue a hearing for good cause.

Historical Note

Adopted effective December 30, 1974 (Supp. 75-1). Former Section R16-3-108 repealed, new Section R16-3-108 adopted effective January 7, 1977 (Supp. 77-1). Former Section R16-3-108 renumbered and amended as Section R16-3-105, former Section R16-3-124 renumbered and amended as Section R16-3-108 effective August 27, 1980 (Supp. 80-4). Section repealed; new Section made by final rulemaking at 8 A.A.R. 836, effective February 7, 2002 (Supp. 02-1).

R16-3-109. Evidence Produced at the Hearing

- A.** The Board shall accept oral evidence only upon oath or affirmation.
- B.** Each party may call and examine witnesses, introduce exhibits, and cross-examine witnesses on any matter relevant to the appeal. The presiding officer at the hearing may call a party, or any other person who is present, to testify under oath or affirmation. The presiding officer and any member of the Board or its staff may question witnesses.
- C.** The Board may admit any relevant evidence, including affidavits and forms of hearsay evidence. The Board shall be liberal in admitting evidence but shall consider objections to the admission and comments on the weakness of evidence in assigning weight to the evidence.
- D.** The Board may admit carbon copies, photocopies, or copies made by similar procedures in place of original documents upon a showing of authenticity and proper foundation.
- E.** A party may substitute an exact legible copy for an exhibit upon written request if the request is submitted to the Board within 10 days after the hearing.

Historical Note

Adopted effective December 30, 1974 (Supp. 75-1). Amended effective January 7, 1977 (Supp. 77-1). Former Section R16-3-109 renumbered and amended as Section R16-3-106, former Section R16-3-114 renumbered and amended as Section R16-3-109 effective August 27, 1980 (Supp. 80-4). Section repealed; new Section made by final rulemaking at 8 A.A.R. 836, effective February 7, 2002 (Supp. 02-1).

R16-3-110. Official Notice

- A.** The Board may take official notice of the following without the production of additional evidence:
1. Records maintained by the Board.

2. Tax returns filed with the Department for or on behalf of the Appellant or any affiliated company and related records on file with the Department.
 3. Any fact that may be judicially noticed by the courts of this state.
- B.** The parties may, refute any matters officially noticed at any time before the Board's decision or order becomes final.

Historical Note

Adopted effective December 30, 1974 (Supp. 75-1). Former Section R16-3-110 repealed, new Section R16-3-110 adopted effective January 7, 1977 (Supp. 77-1). Former Section R16-3-110 renumbered and amended as Section R16-3-107, former Section R16-3-115 renumbered and amended as Section R16-3-110 effective August 27, 1980 (Supp. 80-4). Former Section R16-3-110 repealed; new Section R16-3-110 renumbered from R16-3-116 and amended by final rulemaking at 8 A.A.R. 836, effective February 7, 2002 (Supp. 02-1).

R16-3-111. Subpoena

The Board may, at its discretion or upon written request submitted by a party at least 15 days before a hearing, issue subpoenas for the attendance of witnesses or the production of books, records, documents, or other evidence that is not confidential or privileged. A subpoena shall be served on behalf of and at the expense of the party requesting its issuance.

Historical Note

Adopted effective December 30, 1974 (Supp. 75-1). Amended effective January 7, 1977 (Supp. 77-1). Former Section R16-3-111 renumbered and amended as Section R16-3-114, former Section R16-3-103 renumbered and amended as Section R16-3-111 effective August 27, 1980 (Supp. 80-4). Section repealed; new Section made by final rulemaking at 8 A.A.R. 836, effective February 7, 2002 (Supp. 02-1).

R16-3-112. Repealed**Historical Note**

Adopted effective December 30, 1974 (Supp. 75-1). Amended effective January 7, 1977 (Supp. 77-1). Former Section R16-3-112 repealed, former Section R16-3-104 renumbered and amended as Section R16-3-112 effective August 27, 1980 (Supp. 80-4). Section repealed by final rulemaking at 8 A.A.R. 836, effective February 7, 2002 (Supp. 02-1).

R16-3-113. Transcripts and Records

- A.** The hearing before the Board shall be transcribed upon written request submitted by a party to the Board at least five days before the hearing. The transcript shall be prepared at the expense of the requesting party.
- B.** A person shall not remove the records of the Board from its office for use as evidence or for other purposes. The Board shall provide certified copies of records as required under A.R.S. Title 39, Chapter 1.

Historical Note

Adopted effective December 30, 1974 (Supp. 75-1). Amended effective January 7, 1977 (Supp. 77-1). Former Section R16-3-113 amended and former Section R16-3-123 renumbered and amended as Section R16-3-113 effective August 27, 1980 (Supp. 80-4). Section repealed; new Section made by final rulemaking at 8 A.A.R. 836, effective February 7, 2002 (Supp. 02-1).

R16-3-114. Decision or Order

- A. If a quorum of the Board agrees on a decision or order, the Board shall issue the decision or order.
- B. The Board shall issue all decisions or orders in writing and shall include separately-stated findings of fact and conclusions of law.
- C. The Board shall mail, return receipt requested, or hand deliver a decision or order to the parties.
- D. Except in the case of a tax dispute between municipalities, a decision or order is final 30 days after the Appellant receives it unless an aggrieved party files a motion for rehearing or review within 15 days after receipt.
- E. In a dispute between municipalities, a decision or order is final on the date of receipt by the party. An aggrieved party has 30 days to appeal the decision or order of dismissal to the tax court.

Historical Note

Adopted effective December 30, 1974 (Supp. 75-1). Amended effective January 7, 1977 (Supp. 77-1). Former Section R16-3-114 renumbered and amended as Section R16-3-109, former Section R16-3-111 renumbered and amended as Section R16-3-114 effective August 27, 1980 (Supp. 80-4). Section repealed; new Section made by final rulemaking at 8 A.A.R. 836, effective February 7, 2002 (Supp. 02-1).

R16-3-115. Rehearing or Review of Decision or Order

- A. The Board may grant a rehearing or review of a decision or order based on a motion by an aggrieved party, or at its own discretion, for any of the following reasons:
 - 1. The findings of fact, conclusions of law, order, or decision are not supported by the evidence or are contrary to law.
 - 2. The party seeking review was deprived of a fair hearing due to irregularity in the proceedings, abuse of discretion, or misconduct of the prevailing party.
 - 3. Accident or surprise which could not have been prevented by ordinary prudence.
 - 4. Material evidence, newly discovered, which with reasonable diligence could not have been discovered and produced at the hearing.
 - 5. Error in admission or rejection of evidence, or other errors of law occurring at the hearing or during the progress of the action.
 - 6. The decision is the result of passion, bias or prejudice.
- B. Enforcement of a decision of the Board is stayed pending a determination on the motion for rehearing or review. If a motion for rehearing or review is denied, the stay is automatically lifted. The decision becomes final 30 days after the Appellant is notified of the Board's action on the motion for rehearing or review.
- C. The aggrieved party shall ensure that the motion for a rehearing or review is in writing and specifies the grounds upon which the motion is based. The aggrieved party may amend the motion at any time before the Board rules on it.
- D. If the Board desires a response to the motion for rehearing or review from the opposing party, the Board shall notify the opposing party in writing and allow a reasonable period of time for preparation and filing of the response.
- E. After granting a motion for rehearing or review, the Board may take additional testimony, amend findings of fact or conclusions of law, or make new findings or conclusions, and issue a new decision, depending on the particular circumstances of the appeal.

Historical Note

Adopted effective December 30, 1974 (Supp. 75-1).

Amended effective January 7, 1977 (Supp. 77-1). Former Section R16-3-115 renumbered and amended as Section R16-3-110, former Sections R16-3-116 and R16-3-117 renumbered and amended as Section R16-3-115 effective August 27, 1980 (Supp. 80-4). Former Section R16-3-115 repealed; new Section R16-3-115 renumbered from R16-3-121 and amended by final rulemaking at 8 A.A.R. 836, effective February 7, 2002 (Supp. 02-1).

R16-3-116. Renumbered**Historical Note**

Adopted effective December 30, 1974 (Supp. 75-1). Amended effective January 7, 1977 (Supp. 77-1). Former Section R16-3-116 renumbered and amended as Section R16-3-115, former Section R16-3-118 renumbered and amended as Section R16-3-116 effective August 27, 1980 (Supp. 80-4). Section R16-3-116 renumbered to R16-3-110 by final rulemaking at 8 A.A.R. 836, effective February 7, 2002 (Supp. 02-1).

R16-3-117. Repealed**Historical Note**

Adopted effective December 30, 1974 (Supp. 75-1). Former Section R16-3-117 renumbered and amended as Section R16-3-115, former Section R16-3-119 renumbered and amended as R16-3-117 effective August 27, 1980 (Supp. 80-4). Section repealed by final rulemaking at 8 A.A.R. 836, effective February 7, 2002 (Supp. 02-1).

R16-3-118. Repealed**Historical Note**

Adopted effective December 30, 1974 (Supp. 75-1). Amended effective January 7, 1977 (Supp. 77-1). Former Section R16-3-118 renumbered and amended as Section R16-3-116, former Section R16-3-120 renumbered and amended as Section R16-3-118 effective August 27, 1980 (Supp. 80-4).

R16-3-119. Repealed**Historical Note**

Adopted effective December 30, 1974 (Supp. 75-1). Amended effective January 7, 1977 (Supp. 77-1). Former Section R16-3-119 renumbered and amended as Section R16-3-117, former Sections R16-3-121 and R16-3-122 renumbered and amended as Section R16-3-119 effective August 27, 1980 (Supp. 80-4). Section repealed by final rulemaking at 8 A.A.R. 836, effective February 7, 2002 (Supp. 02-1).

R16-3-120. Repealed**Historical Note**

Adopted effective December 30, 1974 (Supp. 75-1). Amended effective January 7, 1977 (Supp. 77-1). Former Section R16-3-120 renumbered and amended as Section R16-3-118, former Section R16-3-125 renumbered and amended as Section R16-3-120 effective August 27, 1980 (Supp. 80-4). Section repealed by final rulemaking at 8 A.A.R. 836, effective February 7, 2002 (Supp. 02-1).

R16-3-121. Renumbered**Historical Note**

Adopted effective December 30, 1974 (Supp. 75-1).

Amended effective January 7, 1977 (Supp. 77-1). Former Section R16-3-121 renumbered and amended as Section R16-3-119, former Section R16-3-126 renumbered and amended as Section R16-3-121 effective August 27, 1980 (Supp. 80-4). Section renumbered to R16-3-115 by final rulemaking at 8 A.A.R. 836, effective February 7, 2002 (Supp. 02-1).

R16-3-122. Renumbered**Historical Note**

Adopted effective December 24, 1974 (Supp. 75-1).
Amended effective January 7, 1977 (Supp. 77-1).
Renumbered and amended as Section R16-3-119 effective August 27, 1980 (Supp. 80-4).

R16-3-123. Renumbered**Historical Note**

Adopted effective December 24, 1974 (Supp. 75-1).
Amended effective January 7, 1977 (Supp. 77-1).
Renumbered and amended as Section R16-3-113 effective August 27, 1980 (Supp. 80-4).

R16-3-124. Renumbered**Historical Note**

Adopted effective December 24, 1974 (Supp. 75-1).
Amended effective January 7, 1977 (Supp. 77-1).
Renumbered and amended as Section R16-3-108 effective August 27, 1980 (Supp. 80-4).

R16-3-125. Renumbered**Historical Note**

Adopted effective December 24, 1974 (Supp. 75-1).
Amended effective January 7, 1977 (Supp. 77-1).
Renumbered and amended as Section R16-3-120 effective August 27, 1980 (Supp. 80-4).

R16-3-126. Renumbered**Historical Note**

Adopted effective January 7, 1977 (Supp. 77-1). Renumbered and amended as Section R16-3-121 effective August 27, 1980 (Supp. 80-4).