

RULES OF PROCEDURE BEFORE THE SALES TAX BOARD OF APPEALS

APPEAL DEADLINE: The statement of appeal should be filed on forms provided by the Sales Tax Office and shall be served **within 20 calendar days** from either the date the decision or action was mailed to the appellant by the Sales Tax Office, or the date the appellant first learned of the decision or action, which ever is earlier.

The Sales Tax Board of Appeals may, in its discretion, accept an appeal filed later than the deadline prescribed above upon good cause being shown by the appellant. Good cause does not include the appellant's failure to notify the Sales Tax Office of a change of address.

STATEMENT OF APPEAL AND REQUEST FOR HEARING: The statement on appeal shall state or have attached to it:

1. A copy of all relevant sales tax ordinance sections, or a statement of relevant sales tax ordinance sections;
2. A written statement in ordinary and concise language of how the position taken by the Sales Tax Office does not comply with the ordinance, including the particular circumstances, events, or occurrences which show the appellant has complied with the ordinance;
3. Any documents supporting the appellant's position; and
4. The signature of the appellant.

The Sales Tax Board of Appeals may dismiss an appeal if the appellant does not state the grounds upon which relief is requested or provide sufficient supportive documentation.

WHERE TO FILE APPEAL: An aggrieved taxpayer or seller (hereafter "appellant") initiates an appeal by serving the statement of appeal, by personal service with receipt acknowledged or by certified mail return receipt requested, on the City & Borough Clerk located at 155 S. Seward St. #202, Juneau, AK 99801

BURDEN OF PROOF: The appellant bears the burden of proof.

RESPONSE BY THE SALES TAX OFFICE: The Sales Tax Office shall file a response with the City and Borough Clerk within 20 days from the time it receives the appellant's statement from the City and Borough Clerk. The response shall answer the appeal sufficiently to present the City and Borough's position. The response shall be served on the City and Borough Clerk who shall distribute it by personal service or by certified mail to the appellant within 10 days of receipt.

The Sales Tax Board of Appeals may, in its discretion, extend the deadline prescribed above upon good cause being shown by the CBJ.

REQUEST FOR PRE-HEARING CONFERENCE: The Appellant, CBJ or the Board may request a pre-hearing conference to consider the following:

1. Simplification or settlement of the issues;
2. Preparation and distribution of the record;
3. Briefing schedule;

Sales Tax Board of Appeals

Rules of Procedure

Page 2 of 3

4. The date for the hearing;
5. The order and time limits for presentation of the appeal;
6. Any other matter that may assist in the disposition of the appeal.

The Board Chair shall issue a pre-hearing order and calendar setting forth the action taken at the conference.

NOTICE OF HEARING: The City and Borough Clerk shall contact the Board, appellant, and CBJ Sales Tax Administrator to determine the date and time of the hearing. If requested by any party, the Clerk shall deliver or mail by certified mail a notice of hearing to all parties at least 10 days before the hearing and 10 days after the expiration of respondent's time period to file a response. The notice of hearing shall be in substantially the following form:

You are notified that a hearing will be held before the Sales Tax Board of Appeals at (place of hearing) upon the _____ day of _____, 200__, at the hour of _____ o'clock __m. You may be present at the hearing but need not be. You may present any relevant evidence, and will have an opportunity to cross-examine all witnesses. You may have subpoenas issued to compel the attendance of witnesses and for the production of books, documents or other things by applying to the Sales Tax Appeals Board prior to the hearing. The Board has the authority to subpoena both individuals and information under the Alaska Rules of Civil Procedure and may authorize deposition to be taken for witnesses who are not able to attend the hearing.

CONDUCT OF THE BOARD: The members of the Board shall act in an impartial manner, and shall not discuss the case with any of the parties involved except at the hearing.

ADMISSIBILITY OF EVIDENCE: The hearing shall be informal and shall not be conducted according to formal rules of civil procedures relating to the introduction of evidence and the testimony of witnesses. Relevant evidence shall be admitted if it is that upon which responsible persons are accustomed to rely upon in the conduct of their serious affairs. Hearsay evidence may be used to supplement or explain direct evidence but shall not be sufficient by itself. Irrelevant or repetitious evidence or testimony shall be excluded. Affidavits shall be considered oral testimony and a "Notice of Affidavit" shall be served on the opposing party and upon the Board not less than ten days before the hearing. The opposing party shall have seven days from receiving the affidavit to request cross-examination of the affiant at the hearing. If an opportunity to cross-examine an affiant under oath at the hearing is not given after it has been requested, the affidavit may not be entered as evidence. The form of the notice of affidavit shall be available at the Sales Tax Office and shall be in a form similar to:

The accompanying affidavit of (name of affiant) will be introduced as evidence at the hearing before the Sales Tax Board of Appeals. (Name of affiant) will not be called to testify orally and you may not question the affiant at the hearing unless you notify the opposing party in writing that you wish to cross examine the affiant under oath at the time of the hearing.

CONDUCT OF HEARING: The hearing shall be conducted by the chair of the Board who shall rule on the admissibility of evidence. Three members of the Board must be present to hear an appeal. A recording capable of transcription shall be kept of all proceedings. Evidence may be taken only upon oath or affirmation. Each party may:

Sales Tax Board of Appeals

Rules of Procedure

Page 3 of 3

1. Call and examine witnesses,
2. Introduce exhibits,
3. Cross examine opposing witnesses on any relevant matters, AND
4. Testify upon their own behalf.

The appellant's case shall be presented first with the City and Borough's case to follow. Rebuttal evidence may be presented by either party if the Board so allows. Members of the Board may ask questions of any witness at any time. The Board may impose time limits, as it deems necessary.

DECISION BY BOARD: Once a decision is reached by a majority vote of the Board, it shall be committed to writing and delivered to the parties. The decision shall become effective thirty days after delivery unless:

1. Reconsideration is ordered by the Board within that time,
2. The Board orders the decision to be effective sooner, or
3. A stay of execution is granted for a particular purpose.

RECONSIDERATION: Within thirty days of the Board's decision, reconsideration may be requested in writing to the City and Borough Clerk by either party or the Board, of any part of or all of the decision. The City and Borough Clerk shall distribute the request for reconsideration to all parties and Sales Tax Board of Appeals members by personal service or by certified mail, return receipt requested, within three days of receipt. If two members of the Board making the initial decision notify the City and Borough Clerk their desire to reconsider the decision within 30 days of the filing of the reconsideration request, reconsideration will be granted. If the Board fails to act on the motion for reconsideration within thirty days, the motion is denied. If the motion for reconsideration is granted, the case shall be reconsidered by the Board following the same notification and time schedules for the initial hearing.

If an appeal to the Assembly or a motion for reconsideration is not made to the Board within thirty days of the Board's decision, the decision shall become final, and no further appeal shall be allowed; and the failure to exhaust these administrative remedies may result in a bar of all further administrative or judicial review.

CONTINUANCES: A hearing may be continued for good cause shown as determined by the Board.

RULES AND REGULATIONS: The Board may adopt such rules and regulations it deems appropriate to efficiently and expeditiously further its operations, purposes and goals.

COSTS & ATTORNEY FEES: Each party shall bear their own costs and attorney's fees.

FURTHER QUESTIONS: Please contact the City and Borough Clerk if you have any questions regarding this procedure.