The Income Tax Board of Review, City of Columbus

Taxpayer Instructions

and

Rules and Regulations

Taxpayer Instructions

This information is to assist municipal taxpayers who wish to appeal a decision of the City of Columbus, Income Tax Division:

1. Write a short and plain letter requesting a hearing and stating why the decision of the Income Tax Division is incorrect or unlawful. The request must be filed no later than sixty (60) days after the Income Tax Division or Tax Administrator issues an assessment. Please include a telephone number at which you may be contacted. If you are appealing a denial of a refund that you requested as part of your regularly filed municipal income tax return, you may request a hearing prior to receiving a final appealable assessment so long as you include in your letter a request for a final appealable assessment.

2. Please send your letter to:

   Income Tax Administrator

   City of Columbus, Board of Tax Review

   77 North Front Street, 2nd Floor

   Columbus, Ohio 43215

3. The Board will hold hearings at 77 North Front Street, Columbus, Ohio 43215, unless otherwise designated by the Board. You will be notified by ordinary mail of the time and place of your hearing within twenty-one (21) days of the City's receipt of your hearing request. The hearing will be held within sixty (60) days of the City's receipt of your hearing request.

4. If you cannot attend the hearing at the time scheduled, contact the Income Tax Division at (614) 645-7370. Every attempt will be made to reschedule the hearing. You may also waive the hearing and appeal in writing.

5. The Board of Review, consisting of three resident volunteer members, shall hear the case. Hearings are not open to the public. A taxpayer appearing before the Board may be represented by an attorney at law, a certified public accountant, or other representative. A taxpayer not represented by an attorney at law or certified public accountant who wishes to appear with a representative must provide a Power of Attorney (POA) designating the scope of the representative's authority. The Division has a template POA available at: https://www.columbus.gov/IncomeTaxDivision/TaxForms/Businesses/. A taxpayer may also use his/her own Power of Attorney form, so long as all Ohio Revised Code requirements are met.

6. The Board may allow a hearing to be continued to a later date if the taxpayer and Tax Administrator jointly agree to the continuance. In such a case, the hearing must be completed within one-hundred and twenty (120) days after the first day of the hearing unless the taxpayer and Tax Administrator agree otherwise.

7. Upon hearing, the Board shall have jurisdiction to affirm, reverse, or modify any assessment, in whole or in part, as provided in Columbus City Codes § 362.18(E).

8. The Board shall issue a final determination within ninety (90) days after the Board's final hearing on the appeal. The Board shall send a copy of its final determination by ordinary mail to all parties within fifteen (15) days after issuing the final determination. The taxpayer and the Tax Administrator both have the right to appeal the Board's final determination as provided in section 5717.011 of the Ohio Revised Code.

9. Should you have any questions or need any assistance, please contact Daniel Strasser at DJStrasser@columbus.gov or 614- 645-7370. -

Rules and Regulations of the City of Columbus, Board of Tax Review

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ARTICLE I – Scope of Rules, Purpose, and Authority

Section 1. Scope of Rules

The City of Columbus Board of Tax Review (the "Board of Tax Review" or the "Board"), constituted pursuant to Chapter 362 of the Columbus City Codes, adopts these rules and regulations (the "Rules and Regulations") in accordance with Columbus City Codes § 362.18(F) and § 121.02 to outline the procedures by which the Board will conduct its work.

Section 2. Amendments

The Board may amend these rules from time to time by a majority vote of the entire membership of the Board. All Board members must receive a copy of any proposed rule amendment(s) at least five (5) business days prior to a vote on the proposed amendments. Proposed amendment(s) shall be distributed to all members in the same manner as regular meeting materials.

Amendments adopted pursuant to the foregoing procedures shall be effective on the tenth calendar day after promulgation by publication in the City Bulletin in accordance with Columbus City Codes § 121.05.

Section 3. Purpose and Authority

The purpose of the Board is to discharge the duties and functions designated to the Board in Chapter 362 of the Columbus City Codes. The Board is empowered to hear and adjudicate taxpayer appeals of Tax Administrator assessments, as that term is defined in Chapter 362 of the Columbus City Codes.

The Board is also empowered to make, adopt, and from time to time, alter its own procedures for the conduct of its meetings and proceedings and to select its own secretary in accordance with these Rules and Regulations.

Section 4. Definitions

Terms not otherwise defined in these Rules and Regulations shall have the meaning prescribed in Chapter 362 of the Columbus City Codes.

Section 5. Adoption of Robert's Rules

The rules contained in the current edition of Robert's Rules of Order Newly Revised shall govern the Board in all cases to which they are applicable and in which they are not inconsistent with these rules and regulations and any other special rules of order the Board may adopt.

ARTICLE II – Members

Section 1. Appointments and Qualifications

The Board of Review shall consist of three resident volunteer members as outlined in § 362.18 of the Columbus City Codes. Two members shall be appointed by City Council, and must not be employees, elected officials, or contractors of the City of Columbus at any time during their term or in the five years immediately preceding their appointment.

One member shall be appointed by the Mayor. This member may be an employee of the City, but may not be the director of finance and management, Tax Administrator, or other similar official or employee involved in municipal tax matters, or a direct subordinate thereof.

Section 2. Term

Each member shall be appointed for a term of two years. There is no limit on the number of terms that a member appointed by City Council may serve. The Board member appointed by the mayor shall serve at the Mayor's discretion.

A Board member who, for any reason, ceases to meet the qualifications for Board members as set forth in the Columbus City Codes shall resign immediately. The secretary of the Board shall send notification to the Administrative Coordinator, as defined in Article V below, requesting replacement of the member by the same appointing authority that originally appointed the member, the City Council or Mayor, as applicable.

ARTICLE III – Organization and Officers

Section 1. Officers

There shall be the following officers of the Board: a chairperson and a secretary.

Section 2. Chairperson

The most senior of the two Board members appointed by City Council shall act as the chairperson of the Board. The chairperson shall generally preside over Board meetings and hearings, including calling meetings to order, announcing the business of the Board, recognizing persons who are entitled to speak, and authenticating by signature decisions of the Board. In the event that the Board members appointed by City Council were appointed simultaneously, the Board shall select by majority vote one of the members appointed by City Council to serve as chairperson. For purposes of these Rules and Regulations, the seniority of a Board member who has served multiple terms shall be calculated with reference to the appointment date of the member's first term.

Section 3. Secretary

The Board shall select by majority vote a member, who may not also be the chairperson, to serve as the secretary of the Board. The secretary shall be responsible for preparing an agenda for regular meetings; keeping appropriate records of proceedings, including minutes of regular meetings; calling the roll for attendance at regular meetings and hearings; calling the roll for voting purposes at regular meetings; providing all documents produced during a hearing that contain confidential tax information to the Administrative Coordinator at the conclusion of the

hearing; and preparing correspondence as directed by the Board. The term of the office of the secretary shall last until a successor is elected. Should the office of the secretary become vacant, the Board shall call a regular meeting to elect a successor.

ARTICLE IV – Duties of Members and Standards of Conduct

Section 1. Attendance

Attendance by all members at each hearing is required. The Administrative Coordinator responsible for scheduling hearings will endeavor to accommodate the schedules of Board members, but each Board member is responsible for ensuring that all taxpayers who request a hearing before the Board are afforded such hearing within sixty (60) days of filing the request.

Section 2. Absenteeism

A Board member who misses a hearing without excuse or who fails to cooperate with the Administrative Coordinator in scheduling hearings shall be subject to removal.

Section 3. Confidentiality

Hearings requested by a taxpayer before the Board are not meetings of a public body subject to § 121.22 of the Ohio Revised Code. For this reason, such hearings shall not be open to the public, and only those parties to the case may be present during the hearing. All hearings by the Board will be conducted privately and confidential tax information disclosed during the proceedings shall not be subject to disclosure in accordance with Columbus City Code §362.18(F). Any information gained as a result of any returns, investigations, hearings, or verifications required or authorized by the Columbus City Codes shall be confidential, except for official purposes or except when ordered by a court of competent jurisdiction. Board members are strictly prohibited from discussing the substance of any confidential tax matters before the Board with anyone other than Board members, unless ordered to do so by a court of competent jurisdiction. Any person divulging such information in violation of the Columbus City Codes §362.18(F) shall be guilty of a misdemeanor. Each disclosure shall constitute a separate offense.

The duties of Board members set forth in this Section shall continue in full force and effect in perpetuity and shall expressly survive the expiration of any Board member's term.

Section 4. Conflict of Interest

Each Board member has a duty to disclose potential conflicts of interest with respect to the taxpayer making the appeal, the tax preparer or tax preparation firm, or the basis of the appeal. A Board member with a potential conflict of interest must recuse herself /himself from hearing the matter. A Board member with a potential conflict of interest shall notify the Administrative Coordinator as soon as practicable, and the Administrative Coordinator shall be responsible for contacting the appropriate alternate, as set forth in Article II, to hear the appeal. If no such alternate exists, the Administrative Coordinator shall contact the appointing authority responsible for the appointment of the Board member with the conflict of interest, so that the appointing

authority may select a temporary replacement in accordance with Columbus City Codes § 362.18(A)(7).

Section 5. Demeanor

All Board members shall act in a professional manner while discharging their duties as Board members.

ARTICLE V – Income Tax Division Personnel

Section 1. Administrative Coordinator

The Tax Administrator shall select an Administrative Coordinator to coordinate with the Board of Tax Review for purposes of scheduling hearings and transmitting confidentially all documentation necessary for the Board to discharge its duties. In this capacity, the Administrative Coordinator shall:

(a) Provide information to taxpayers on how to appeal an assessment of the Tax Administrator;
(b) Accept and process all written requests to hear an appeal of an assessment;
(c) Notify the Tax Administrator and Board members of all written requests to appeal an assessment within five (5) days of receiving a written request to hear an appeal, and forward a copy of the appeal and related documentation using secure means to the Tax Administrator and Board members;
(d) If applicable, forward to the Tax Administrator any request for an appealable assessment;
(e) Coordinate with all Board members to schedule the hearing, which must be held within sixty (60) days of the City's receipt of the taxpayer's written request;
(f) Notify the Tax Administrator and taxpayer of hearing date, time, and location no later than twenty-one (21) days following the City's receipt of the taxpayer's written request. Notice must be delivered to the taxpayer using certified mail. Notice shall be deemed delivered when sent for purposes of satisfying the deadlines set forth in this division;
(g) Receive correspondence on behalf of the Board;
(h) Respond to any requests for additional information from the Board, including coordinating requests for Legal Counsel;
(i) Prepare copies of tax returns, correspondence, and any other submissions pertinent to the appeal or hearing;
(j) Forward to the Board members using secure means any briefing submitted pursuant to Article VII herein;
(k) Make all arrangements for a court reporter to attend and create a transcript of each hearing;
(l) Collect all written material generated as a result of any hearing for secure storage in a separate file for the Board of Tax Review;

(m) Provide as necessary any information or documentation to Board members upon their request pursuant to the Income Tax Division's policies regarding secure document transmission;
(n) Receive the Board's final determination and send the final determination by ordinary mail to all of the parties to the appeal, including the taxpayer, no later than fifteen (15) days following the final determination;
(o) With respect to regular meetings, notify Board members at least forty-eight (48) hours before the prescribed time to convene by giving proper notice of the meetings by mail, telephone, and/or e mail;
(p) Advertise regular meetings open to the public by publishing notice in the City Bulletin at least forty-eight (48) hours prior to the regular meeting, and notify any members of the public or media that have requested notification of such meetings; and
(q) Contact new Board members and provide copies of these Rules and Regulations.

Section 2. Tax Administrator

The Tax Administrator or her/his designee, which may include legal counsel from the City Attorney's Office, shall represent the Income Tax Division at all hearings.

Section 3. Confidentiality

No personnel of the Income Tax Division may discuss any substantive aspect of a pending appeal with Board members other than at a formal hearing where the appellant is present or has the opportunity to be present and heard.

ARTICLE VI – Legal Counsel

The Board of Tax Review shall be represented by counsel from the City Attorney's Office. Upon notification by the Board that legal counsel is needed, the Administrative Coordinator shall contact the City Attorney's Office to coordinate the assistance needed.

ARTICLE VII – How to Appeal an Assessment

Section 1. Procedures to Initiate an Appeal

A taxpayer who wishes to appeal an assessment of the Tax Administrator shall request review by the Board of Tax Review, in writing, within sixty (60) days of the date on which the Tax Administrator issued the assessment. The request shall state why the Tax Administrator decision or assessment should be deemed incorrect or unlawful.

Generally, only assessments as defined in the Columbus City Codes are appealable. If, however, a taxpayer wishes to appeal the Tax Administrator's denial, in whole or in part, of a refund request included within the taxpayer's originally filed annual income tax return, the taxpayer may elect to file an appeal of a Tax Administrator decision before the Tax Administrator issues a formal assessment by filing a written request conforming in all material

respects to the requirement prescribed in this Section, so long as the taxpayer includes in the request for review by the Board of Tax Review an additional request that the Tax Administrator provide a final appealable assessment prior to the hearing. The Tax Administrator will issue the appealable assessment promptly upon request. Such early request for review will not alter the sequence of notices or procedures required by the Columbus City Codes.

Section 2. Optional Briefing

After receiving notice of the date of the hearing, the parties may, but are not required to, submit to the Administrative Coordinator a short brief not to exceed ten pages outlining the party's arguments not later than seven (7) days prior to the hearing. The Administrative Coordinator shall be responsible for securely transmitting any briefs submitted pursuant to this section to the Board members.

ARTICLE VIII – Procedural Rules for Appeal Hearings

Section 1. General Procedural Rules

Generally, appeals are generated by a taxpayer contesting an assessment issued by the Tax Administrator. When a request for an appeal is received by the Administrative Coordinator, the Administrative Coordinator will notify the Board members within five (5) days. The Tax Administrator may also bring procedural matters before the Board.

The Board shall hear any appeal no later than sixty (60) days after the filing of such a request with the Administrative Coordinator, unless the taxpayer making such request agrees to a later hearing. The hearing may be continued by the Board if the taxpayer and Tax Administrator jointly agree to the continuance. In such a case, the hearing must be completed within one-hundred and twenty (120) days after the first day of the hearing unless the taxpayer and Tax Administrator agree otherwise.

All parties shall have the right to appear and be heard in person, and may be represented by an attorney at law, certified public accountant, or other representative. All such parties shall have the right to offer and present testimony and evidence relative to the matters set forth in the assessment subject to appeal.

The Board shall rule on matters of evidence. In so doing, the Board is not strictly bound by the Ohio Rules of Evidence.

All testimony shall be given under oath or affirmation. The following oath shall be given by the chairperson to all persons who give testimony or present evidence before the Board, including Income Tax Division staff:

"Do you swear or affirm to tell the truth, the whole truth and nothing but the truth?"

Section 2: Quorum

Two members of the Board must be present at any hearing.

Section 3: How a Hearing Shall be Conducted

Each hearing shall proceed according to the following steps:

* Attendance roll call for Board members.

* Introductions.

* Declaration of what is being appealed.

* Reading of Conflict of Interest Statement.

"Is anyone present aware of a potential conflict of interest in this appeal concerning the taxpayer making the appeal, the tax preparer, or the basis of the appeal?"

* City presents its case.

* Appellant (or representative) presents Appellant's case.

* Response time to Appellant's statements - City.

* Response time to City's statements - Appellant.

* Questions by the Board members to both the City and Appellant.

* City representative and Appellant are excused.

* In the event additional information or Legal Counsel is needed, the Board shall suspend the hearing until sufficient information is received. All parties will be notified of when the hearing will resume.

* Board members discuss case in private.

Section 4. Standard of Proof

The standard of proof for a finding shall be by a preponderance of the evidence presented to the Board.

Section 5. Final Determination

At the conclusion of the presentation of the matter, the Board may either take the matter under consideration or move for an immediate decision.

Each member shall record his or her decision on the opinion form attached as Addendum 1 to these Rules and Regulations. The chairperson will memorialize the majority opinion on the summary sheet, the form of which is attached as Addendum 2 to these Rules and Regulations.

Members will review and sign the summary sheet. The secretary will be responsible for promptly submitting the summary sheet to the Administrative Coordinator, who will distribute a copy of the decision to the parties by ordinary mail within fifteen (15) days.

If deemed appropriate by the Board, a verbal decision may be given during the hearing. If so, a copy of the written summary will still be mailed to the appellant.

The Board must render its final determination within ninety (90) days of the final hearing. Upon rendering a final determination, the Board shall immediately forward its determination and opinion to the Administrative Coordinator, who shall send by ordinary mail a copy of the final determination and opinion no later than fifteen (15) days following the date of the final determination. The decision shall be effective immediately upon the decision of the Board.

Section 6. Appeal

Either party may appeal the Board's final determination pursuant to Ohio Revised Code §5717.011. Any order, decision, or final determination of the Board not appealed shall be final and conclusive on the matter addressed.

ARTICLE IX – Record of Proceedings

Section 1. Record of Proceedings

In addition to the official transcript of proceedings, the record of proceedings shall include the forms completed prior to and at the appeal hearing, any briefing submitted by the parties, any evidence or documentation submitted before the Board, and the Board's final determination.

Section 2. Other Confidential Documentation

After the Board issues a final determination, all Board members must give any other notes or working papers containing confidential tax information to the Administrative Coordinator, who shall ensure that such materials are securely and separately stored in a file for the Board of Review.

ARTICLE X – Procedural Rules for Regular Meetings

Section 1. Procedural Rules

Meetings of the Board are open to the public except when the Board is hearing or otherwise conferring on confidential tax matters. All meetings of the Board not involving confidential tax matters shall herein be referred to as regular meetings. Generally, regular meetings shall be conducted in conformity with Robert's Rules of Order, Newly Revised, except as otherwise provided in these rules and regulations or as amended by the Board.

Section 2. Quorum

Two members of the Board must be present at any meeting to conduct official business. All meetings convened for official action must have a quorum present. In the absence of a quorum, the secretary shall establish a new date for a meeting to consider official actions pending.

If a quorum is not present or not maintained, the present Board members may discuss matters of general concern, but official action requiring a vote may not be taken.

All matters to be considered by the Board for official action other than confidential tax matters are to be decided upon by an affirmative voice vote, with a majority vote of the members needed to affirm action.

Parties seeking a stenographic record of any regular meeting must acquire such stenographic record at their own expense. Records shall be kept in accordance with all pertinent record retention laws.

Section 3. Order of Business

The order of business for the Board shall be at the discretion of the secretary. However, the agenda for each regular meeting shall include:

A. - Roll call by the secretary.

B. - Each member shall sign the attendance sheet.

C. – Approval of the minutes of the last meeting. Upon approval, the minutes shall then be certified by the chairperson and secretary by affixing their signatures thereto.

D. - Presentation of any reports from the secretary or other persons.

E. – Discussion of matters of old business, if any.

F. – Discussion of matters of new business, if any.

G. - Correspondence.

H. - Adjourn the meeting.

ARTICLE XI — Certification and Publication of Rules and Regulations

Section 1.

Immediately upon adoption, these Rules and Regulations shall be certified by the secretary and attested to by the chairperson and a certified copy thereof shall be submitted by the Administrative Coordinator to the City Clerk for filing and publication in the City Bulletin within twenty (20) calendar days thereafter in accordance with Columbus City Codes §121.05.

These Rules and Regulations shall become effective on the tenth day following publication in the City Bulletin.

A copy of these rules shall be maintained by the Administrative Coordinator on behalf of the Division of Income Tax and by the Columbus City Clerk.

Addendum 1

CITY OF COLUMBUS, BOARD OF TAX APPEAL DECISION FORM

HEARING DATE:

TIME:

LOCATION:

PARTIES IN ATTENDANCE:

MOVANT:

MOVANT REPRESENTATIVE:

BOARD MEMBERS:

OTHERS:

APPEAL OF:

The determination of the City of Columbus, Division of Income Tax is:

AFFIRMED REVERSED MODIFIED

_____

Board Member Signature

_____

Date

Addendum 2

CITY OF COLUMBUS, BOARD OF TAX APPEAL SUMMARY OF OPINION

FINDINGS OF FACTS:

ISSUE(S) PRESENTED:

DISCUSSION & ANALYSIS:

DETERMINATION:

_____

Chairperson Signature

_____

Board Member Signature

_____

Date

NOTICE OF RIGHT TO APPEAL:

The Board shall issue a final determination within ninety (90) days after the Board's final hearing on the appeal. The Board shall send a copy of its final determination by ordinary mail to all parties within fifteen (15) days after issuing the final determination. The taxpayer and the Tax Administrator both have the right to appeal the Board's final determination as provided in section 5717.011 of the Ohio Revised Code.