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BUSINESS TAX ASSESSMENT CORRECTIONS, ADMINISTRATIVE APPEALS AND JUDICIAL REVIEW

If a business license taxpayer wishes to challenge an assessment made by the Commissioner of Revenue, he or she may (1) request a correction of the assessment from the Commissioner of Revenue, (2) under certain circumstances, file an administrative appeal with the Commissioner of Revenue, or (3) challenge the assessment in Arlington Circuit Court.

Request for a Correction of Assessment

Pursuant to Va. Code [§ 58.1-3980 et seq.](#), any person aggrieved by a business license tax assessment may apply to the Commissioner of Revenue for a correction of the assessment.

An application for a correction of assessment must be filed **within three years** from the last day of the tax year for which such assessment is made, **or within one year** from the date of the assessment, whichever is later.

Applications for corrections of assessments must be filed in writing with:

Arlington County Commissioner of Revenue
Attn: Request for Correction of Business Tax Assessment
2100 Clarendon Boulevard, Suite 200
Arlington, Virginia, 22201.

The application should include:

- (1) the name, address, and federal tax identification number and tax account number of the taxpayer;
- (2) the specific assessments for which correction is sought, including the applicable time period;
- (3) the total amount in dispute;
- (4) a statement explaining why you believe the assessment is erroneous and the facts, issues and legal authorities that support your position;
- (5) accurate and sufficient records and other factual documentation in support of your position; and
- (6) the remedy you seek.

The Commissioner of the Revenue may request additional information from the taxpayer in response to an application for correction, which the taxpayer is obligated to provide in a timely manner. If the Commissioner does not receive such information within 60 days of its request, she may respond to the application based solely on the information already provided.

The Commissioner will respond to an application with 60 days of the receipt of all necessary information.

In response to an application for correction, the Commissioner of Revenue may change or uphold the assessment. The Commissioner of Revenue will issue a written final determination as to the assessment.

Administrative Appeals

If a business license taxpayer does not choose to file an application for correction, he or she may instead choose to file an administrative appeal, but *only* if the challenge follows the occurrence of certain “appealable events.”

Appealable Events

Any person assessed with a business license tax *as a result of any of the following qualifying appealable events* may file an administrative appeal of the assessment pursuant to Va. Code [§ 58.1-3703.1\(A\)\(5\)](#) with the Commissioner of Revenue:

- (i) an increase in the assessment of business license tax payable by a taxpayer,
- (ii) the denial of a business license tax refund, or
- (iii) the assessment of a business license tax where none previously was assessed.

An administrative appeal is only available if such increase, denial or new assessment arose out of the Commissioner of Revenue’s (i) examination of records, financial statements, books of account, or other information for the purpose of determining the correctness of an assessment; (ii) determination regarding the rate or classification applicable to the licensable business; (iii) assessment of business license tax when no return has been filed by the taxpayer; or (iv) denial of an application for correction of erroneous assessment attendant to the filing of an amended application for a business license.

An “appealable event” also includes a taxpayer’s appeal of “the classification applicable to a business ... regardless of whether the taxpayer’s appeal is in conjunction with an assessment, examination, audit, or any other action” taken by the Commissioner of Revenue.

Filing Deadline

Such appeals must be filed **within one year** from (i) the last day of the tax year for which the relevant assessment was made or (ii) the date of the appealable event, whichever is later.

Appeal Procedure

Administrative appeals should be filed in writing with:

Arlington County Commissioner of Revenue
Attn: Administrative Appeal of Business Tax Assessment
2100 Clarendon Boulevard, Suite 200
Arlington, Virginia, 22201.

The appeal must be filed in good faith and sufficiently identify the taxpayer, audit period, remedy sought, each alleged error in the assessment, the grounds upon which the taxpayer relies, and any other facts relevant to the taxpayer's contention.

The Commissioner of Revenue may hold a conference with the taxpayer if requested, or require submission of additional information and documents, a further audit, or other evidence deemed necessary for a proper and equitable determination of the application. The Commissioner of Revenue shall undertake a full review of the taxpayer's claims and issue a determination to the taxpayer setting forth the Commissioner's position.

Suspension of Collection; Interest Accrual

Provided a timely and complete administrative appeal is filed, collection activity with respect to the amount in dispute will be suspended until a final determination is issued by the Commissioner of Revenue, unless the Treasurer (i) determines that collection would be jeopardized by delay; (ii) is advised by the Commissioner of Revenue that the taxpayer has not responded to a request for relevant information after a reasonable time; or (iii) is advised by the Commissioner of Revenue that the appeal is frivolous. Interest shall accrue as described in the following paragraph, but no further penalty shall be imposed while collection action is suspended.

Interest will be charged on the late payment of the tax from the due date until the date paid without regard to fault or other reason for the late payment. Whenever an assessment of additional or omitted tax by the Commissioner of Revenue is found to be erroneous, all interest and any penalties charged and collected on the amount of the assessment found to be erroneous will be refunded together with interest on the refund from the date of payment or the due date, whichever is later. Interest will be paid on any refund from the date of payment or due date, whichever is later, whether attributable to an amended return or other reason.

Procedure in Event of Non-Decision

Any taxpayer whose administrative appeal to the Commissioner of Revenue has been pending for more than one year without the issuance of a final determination may, upon not less than 30 days' written notice to the Commissioner of Revenue, elect to treat the appeal as denied and appeal the assessment or classification of the taxpayer's business to the Virginia Tax Commissioner. The Virginia Tax Commissioner will not consider such an appeal if he finds that the absence of a final determination on the part of the Commissioner of Revenue was caused by the willful failure or refusal of the taxpayer to provide information requested and reasonably needed by the Commissioner of Revenue to make his or her determination.

Appeal to Virginia Tax Commissioner

Any person assessed with a business license tax as a result of a determination or that has received a determination with regard to the person's appeal of the license classification or subclassification applicable to the person's business, upon an administrative appeal to the Commissioner of Revenue, that is adverse to the position asserted by the taxpayer in such appeal, may appeal such assessment or determination to the Tax Commissioner within 90 days of the date of such determination.

Following a final determination by the Commissioner of Revenue in response to an administrative appeal, a business license taxpayer may file a further appeal with the Virginia Tax Commissioner. This appeal must be filed within 90 days of the date of the determination by the Commissioner of Revenue.

The appeal must be in the form that the Virginia Tax Commissioner may prescribe and the taxpayer must serve a copy of the appeal upon the Commissioner of Revenue. The rules regarding such appeals may be read in the Virginia Administrative Code at [23VAC10-500-640](#) *et seq.*

An appeal to the Virginia Tax Commissioner should be filed at the following address:

Appeals and Rulings
Virginia Department of Taxation
Post Office Box 27203
Richmond, Virginia 23261-7203

On receipt of a notice of intent to file an appeal to the Virginia Tax Commissioner, collection activity with respect to the amount in dispute will be suspended until a final determination is issued by the Virginia Tax Commissioner, unless the Treasurer (i) determines that collection would be jeopardized by delay; (ii) is advised by the Commissioner of Revenue, or the Virginia Tax Commissioner, that the taxpayer has not responded to a request for relevant information after a reasonable time; or (iii) is advised by the Commissioner of Revenue that the appeal is frivolous. Interest will accrue but no further penalty will be imposed while collection action is suspended. The requirement that collection activity be suspended will cease unless an appeal is filed and served on the necessary parties within 30 days of the service of notice of intent to file such appeal.

Judicial Review

Following the issuance of a final determination of the Virginia Tax Commissioner described above, the taxpayer or Commissioner of Revenue may apply to the [Arlington Circuit Court](#) for judicial review of the determination, or any part thereof, pursuant to Va. Code § [58.1-3984](#). This suit must name "Arlington County" as the defendant, not the Commissioner of Revenue.

On receipt of a notice of intent to file an application for judicial review, and upon payment of the amount of the tax relating to any assessment by the Commissioner of Revenue that is not in dispute together with any penalty and interest then due with respect to such undisputed portion of the tax, the Treasurer will suspend collection activity while the court retains jurisdiction unless the court, upon appropriate motion after notice and an opportunity to be heard, determines that (i) the taxpayer's application for judicial review is frivolous; (ii) collection would be jeopardized by delay; or (iii) suspension of collection would cause substantial economic hardship to Arlington County.