

INFORMATION GUIDE

State Tax Appeal Procedures for State Tax Refund Claims (Other Than Property Tax, Bingo, and Alcoholic Beverage Matters)



**South Carolina
Department of
Revenue**

CID-25 (Rev. 7/21/20)

PURPOSE

This information guide explains the South Carolina Tax Appeals Procedure for State Tax Refund Claims (Other than Property Tax, Bingo, and Alcoholic Beverage Matters).

I. Initial Process

- A. You may seek a refund of any state tax paid (other than a property tax) by filing a written claim for refund with the Department of Revenue ("Department").
- B. Your refund claim must contain:
 - a. your name, mailing address, and telephone number;
 - b. the appropriate taxpayer identification number or numbers;
 - c. the tax period or date for which the tax was paid;
 - d. the nature and kind of tax paid;
 - e. the amount which you claim was erroneously paid;
 - f. a statement of facts supporting your position;
 - g. a statement outlining the reasons for the refund claim, including any law or other authority upon which you rely; and
 - h. any other relevant information the Department may reasonably require.

In most instances, only the person who is legally liable for the tax may file a refund claim.

- C. As a general rule, the refund claim must be filed within three years of the time the return was filed or two years from the date the tax was paid, whichever occurs later. If no return was filed, a claim for refund must be filed within two years from the date the tax was paid.
- D. The appropriate division of the Department will decide what refund, if any, is due and give you written notice of its decision.
- E. If your claim for refund is denied, you can appeal by filing a written protest with the Department. The protest must be filed within 90 days from the date of the written denial of the refund claim. The protest must contain the information the refund claim is required to include.
- F. During the appeals process, you may represent yourself or you may be represented by the same persons who may participate in the administrative tax process under Section 12-60-90 of the South Carolina Code. This includes, but is not limited to, attorneys, certified public accountants, enrolled agents, and officers of a corporation.

II. Review by the Department and Conferences with the Department

- A. If you file a protest, the division within the Department that denied the refund claim will acknowledge receipt of the protest in writing and provide you with information as to how to request a division meeting to discuss the protest and your refund claim. If you want to request a division meeting, you must do so within 30 days of the date of the acknowledgement letter. If you request a division meeting, the division will make every attempt to hold the meeting within 60 days of the date of the acknowledgement letter. The purpose of the meeting is for you and the division representative to discuss the facts and issues, to allow you to present any additional information or authority supporting your position, and to resolve the appeal if possible. The meeting may be conducted by telephone if you and the division agree. After the meeting, if your appeal has not been resolved and you wish to continue with the appeal, your protest and file will be forwarded to the Appeals Section of the Department.
- B. The Appeals Section will conduct a substantive review of your appeal and will offer you a conference. The conference may be conducted by telephone if you and the Appeals Section agree. The purpose of the conference is for you and the Appeals Section to discuss the appeal, agree on a preliminary stipulation of facts and issues, and resolve the appeal if possible.
- C. If your appeal is not resolved after the Appeals Section conference and review, and you choose to go forward on the appeal, your protest and file will be forwarded to the General Counsel for Litigation.
- D. A department representative within the General Counsel for Litigation's Office will conduct a substantive review of the protest and file. If you or the department representative believe a conference would help resolve the matter, a conference will be held. The conference may be conducted by telephone if you and the department representative agree. If the appeal is not resolved, the department representative will prepare a written department determination addressing the issues raised in your appeal.

The department determination will be mailed or delivered to you and, generally, must be issued within one year of your filing of the protest.

III. Request for a Contested Case Hearing

- A. If you disagree with the department determination, you may request a contested case hearing before the Administrative Law Court.
- B. If the department determination is not issued timely, the Department will notify you in writing of the right to request a contested case hearing.
- C. The request for a contested case hearing must be made in writing and must be made within 30 days of the date of the department determination or notice. The request must comply with the rules of the Administrative Law Court and include any applicable filing fee. The request must be sent to the Administrative Law Court with a copy sent to the Department.
- D. The rules of the Administrative Law Court will control from this point forward.
- E. If you do not request a contested case hearing within 30 days of the date of the department determination or notice, your refund claim will be deemed denied and no refund of taxes will be issued to you.