



OFFICE OF THE COMMISSIONER OF THE REVENUE
City of Hampton, Virginia
LOCAL BUSINESS TAX APPEALS
BUSINESS PROFESSIONAL OCCUPATIONAL LICENSE TAX

The Virginia General Assembly has instituted provisions that provide taxpayers with an option for problem resolution, without incurring the costly time and expense that can be associated with legal proceedings. In order to be entitled to the provisions, however, an appeal must first be submitted in accordance with the administrative appeals process outlined below. You retain the right to seek correction through the Circuit Court at all times as prescribed by law.

ADMINISTRATIVE APPEALS (Code of Virginia §58.1-3703.1(A) (5))

Step One: In order to utilize the administrative appeals process, an “appealable event” must have occurred.

“Appealable Event”: An increase in the assessment of a local license tax payable by a taxpayer, the denial of a refund, or the assessment of a local license tax where none previously was assessed, arising out of the local assessing official'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 a local 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 license. An appealable event shall include a taxpayer's appeal of the classification applicable to a business, including where the business properly falls within a business license sub classification established by the locality, regardless of whether the taxpayer's appeal is in conjunction with an assessment, examination, audit, or any other action taken by the locality.

Step Two: Submit in good faith a written application for review, as follows:

- To: The Honorable Ross A. Mugler, Commissioner of the Revenue
- At: P O Box 636 - Hampton VA 23669 or via fax to (757) 727-6330
- Documenting:
- 1) Name and address of the taxpayer
 - 2) Taxpayer federal identification number and local tax account number(s)
 - 3) Power of attorney or Letter of Representation (if applicant different from taxpayer)
 - 4) A copy of the assessment
 - 5) Clear identification of the amount in dispute
 - 6) Statement explaining the errors in the assessment, including but not limited to:
 - Facts,
 - Issues, and
 - Supporting authorities
 - 7) Statement of the specific relief sought by the taxpayer.

When: A full and complete appeal must be submitted within one year from the last day of the tax year for which such assessment is made or within one year from the date of assessment, whichever is later.

Step Three: Upon receipt, the Commissioner will conduct a full review of the facts and assertions. He may hold a conference if requested, require submission of additional information and documents, conduct an audit (or further audit), as well as gather any other evidence deemed necessary for a proper and equitable determination of the application.

Collection Activity During an Administrative Appeal

Prior to filing a completed application for review, you may submit a written “Notice of Intent to Appeal.” Filing of this notice will stop collection activity. From that point, no further penalty shall be assessed; however, interest shall continue to accrue in accordance with the provisions of Code of Virginia §58.1-3703.1(A)(2)(e). Regardless of the timing of this notice, the complete appeal must be submitted within the prescribed time period stated above.

Once a timely and complete administrative appeal is filed, collection activity with respect to the amount in dispute shall be suspended until a final determination is issued by the commissioner of the revenue or other assessing official, unless the treasurer or other official responsible for the collection of such tax (i) determines that collection would be jeopardized by delay; (ii) is advised by the commissioner of the revenue or other assessing official that the taxpayer has not responded to a request for relevant information after a reasonable time; or (iii) is advised by the commissioner of the revenue or other assessing official that the appeal is frivolous. Interest shall accrue in accordance with Code of Virginia §58.1-3703.1(A)(2)(e), but no further penalty shall be imposed while collection action is suspended.(Code of Virginia 58.1-3703.1(A)(5)(b).

CIRCUIT COURT – Application to Court to Correct Erroneous Assessments (Code of Virginia §58.1-3984)

Must be filed with the Clerk of the Circuit Court within 3 years from the last day of the tax year for which such assessment is made, within 1 year from the date of assessment or within 1 year of Tax Commissioner's final determination, whichever is later.

CODE OF VIRGINIA - Available through Virginia's Legislative Information System at <http://leg1.state.va.us/000/src.htm>.



**OFFICE OF THE COMMISSIONER OF THE REVENUE
CITY OF HAMPTON, VIRGINIA
LOCAL BUSINESS AND LOCAL MOBILE PROPERTY TAX APPEALS
LOCAL BUSINESS AND LOCAL MOBILE PROPERTY TAX**

The Virginia General Assembly has instituted provisions that provide taxpayers¹ with an option for problem resolution, without incurring the costly time and expense that can be associated with legal proceedings. In order to be entitled to the provisions, however, an appeal must first be submitted in accordance with the administrative appeals process outlined below. You retain the right to seek correction through the Circuit Court, at all times, as prescribed by law.

"Local business tax" includes machinery and tools tax, business tangible personal property tax (including, without limitation, computer equipment) and merchant's capital tax and a consumer utility tax where the amount in dispute exceeds \$2,500 other than the tax collected on mobile telecommunication service. "Local mobile property tax" includes tangible personal property tax on airplanes, boats, campers, recreational vehicles and trailers.

ADMINISTRATIVE APPEAL (Code of Virginia §58.1-3983.1)

Step One: In order to utilize the administrative appeals process, an "assessment" must have occurred. An assessment is:

A determination as to the proper rate of tax, the measure to which the tax rate is applied, and ultimately the amount of tax, including additional or omitted tax, that is due. An assessment shall include a written assessment made pursuant to written notice by the assessing official or a self-assessment made by a taxpayer upon the filing of a return or otherwise not pursuant to notice. A return filed or tax paid before the last day prescribed by ordinance for the filing or payment thereof shall be deemed to be filed or paid on the last day specified for the filing of a return or the payment of tax, as the case may be. An assessment includes a return filed on behalf of the taxpayer by the local assessing officer.

Step Two: Submit in good faith a written application for review, as follows:

- To: The Honorable Ross A. Mugler, Commissioner of the Revenue
At: P O Box 636 • Hampton VA 23669 or via fax to (757) 727-6330
Documenting:
- 1) Name and address of the taxpayer
 - 2) Taxpayer federal identification number and local tax account number(s)
 - 3) Power of attorney or Letter of Representation (if applicant different from taxpayer)
 - 4) A copy of the assessment
 - 5) Clear identification of the amount in dispute
 - 6) Statement explaining the errors in the assessment, including but not limited to:
 - Facts,
 - Issues, and
 - Supporting authorities
 - 7) Statement of the specific relief sought by the taxpayer.

When: A full and complete appeal must be submitted within one year from the last day of the tax year for which such assessment is made or within one year from the date of assessment, whichever is later.

Step Three: Upon receipt, the Commissioner will conduct a full review of the facts and assertions. He may hold a conference if requested, require submission of additional information and documents, conduct an audit (or further audit), as well as gather any other evidence deemed necessary for a proper and equitable determination of the application.

Collection Activity During an Administrative Appeal

Provided a timely and complete application is made, collection activity shall be suspended by the treasurer until a final determination is issued by the commissioner of the revenue, unless the treasurer or other collection official determines that collection would be jeopardized by delay or is advised by the commissioner that the taxpayer has not responded to a request for relevant information after a reasonable time. Interest shall accrue in accordance with the provisions of subdivision A 2 e of § 58.1-3703.1, but no further penalty shall be imposed while collection action is suspended.

CIRCUIT COURT – Application to Court to Correct Erroneous Assessments (Code of Virginia §58.1-3984)

Must be filed with the Clerk of the Circuit Court within 3 years from the last day of the tax year for which such assessment is made, within 1 year from the date of assessment or within 1 year of Tax Commissioner's final determination, whichever is later.

CODE OF VIRGINIA - Available through Virginia's Legislative Information System at <http://leg1.state.va.us/000/src.htm>.

¹ "Taxpayer" includes a business required to collect a local consumer utility tax to the extent that the business is charged or assessed with such tax.