

DEPARTMENT OF REVENUE

Hearings Division

RULES FOR HEARINGS BEFORE THE HEARINGS DIVISION OF THE DEPARTMENT OF REVENUE NOT RELATED TO DRIVER'S LICENSE MATTERS

1 CCR 211-1

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

Rule 1. Scope of Rules

Basis and Purpose. The statutory authority for this Rule includes, but is not limited to, §§ 24-2-105 and 24-35-103, C.R.S. The purpose of this rule is to provide guidance regarding the handling of administrative cases before the Colorado Department of Revenue's Hearings Division. These Rules describe the process that parties will be required to follow in non-driver's license related cases held before the Hearings Division.

Cases are referred to the Hearings Division pursuant to the requirement for hearings under Colorado Revised Statutes regarding the denial or discipline of licenses, and tax assessments and refunds, from the following Divisions of the Department of Revenue: the Auto Industry Division (§§ 44-20-105, 44-20-121, 44-20-122, 44-20-405, and 44-20-421, C.R.S.), Marijuana Enforcement Division (§§ 44-10-306 and 44-10-901, C.R.S.), Liquor and Tobacco Enforcement Division (§§ 44-3-202(c), 44-3-305, 44-3-601 and 44-7-105, C.R.S.), Racing Division (§ 44-32-509, C.R.S.), Tax Division (§§ 39-21-103 and 39-21-104, C.R.S.), and Division of Motor Vehicles (§§ 42-2-407 and 42-4-313, C.R.S.). There are other matters that may be referred to the Hearings Division. However, the listed statutes are relevant to the hearings and rulemaking authority delegated to Hearings Division, as are the following statutes regarding the rulemaking authority of the Department's Executive Director: §§ 39-21-1~~12~~2, 42-1-204, 44-3-202(c), 44-10-202(1)(d), and 44-20-105, C.R.S.

- A. ~~Except as otherwise ordered by the Hearing Officer and except as excluded below, t~~These Rules apply to the conduct of all cases before the Hearings Division, whether contested or not.
- B. These Rules describe and define the procedure used in hearings before the Hearings Division in non-driver's license related cases once a case is referred to the Hearings Division. These rules are not to be construed as applying to anything that happens before a case is referred to the Hearings Division or after the Hearings Division has issued its Initial Decision (or Final Determinations in Tobacco and Tax cases).
- C. To the extent these Rules conflict with other Department Rules, these Rules control the hearings process before the Hearings Division.
- D. These Rules shall be liberally construed to secure just, speedy, and inexpensive determinations of all proceedings presented to the Hearings Division.

Rule 2. Definitions

Basis and Purpose. The statutory authority for this Rule includes, but is not limited to, §§ 24-2-105 and 24-35-103, C.R.S. The purpose of this rule is to provide definitions for terms of art used in these rules.

- A. "Applicant" means an individual or entity applying for a license or other document authorized or required to be issued by the Department.

- B. "Denied Applicant" means an Applicant whose license or other document issued by the Department was denied and is subject to a Licensing Proceeding before the Hearings Division.
- C. "Department" means the Colorado Department of Revenue.
- D. "Disciplinary Proceeding" means an administrative action against a Licensee to determine the merits of alleged violations of statutes and/or the rules/regulations.
- E. "Hearings Division" means the Colorado Department of Revenue Hearings Division.
- F. "Hearing Officer" means an individual authorized by either statute or delegation from the Executive Director of the Department or Revenue to conduct hearings.
- G. "Licensee" means any individual or entity issued a license authorized or required to be issued by the Department.
- H. "Licensing Proceeding" means an administrative action against a Denied Applicant to determine the merits of a denied application.
- I. "Order" means a written or oral direction given by the Hearing Officer instructing that some act be done or that some act is prohibited.
- J. "Prehearing Conference" means a status conference that may be called prior to any hearing.
- K. "Regulatory Email" means the email address to which parties and stakeholders send communications regarding hearings subject to these rules. The regulatory email address is dor_regulatoryhearings@state.co.us.
- L. "Regulatory Hearing" means a hearing held by the Hearings Division involving license, title, or registration issues other than driver's licenses.
- M. "Respondent" means an individual or entity whose license is the subject of a hearing conducted pursuant to these Rules. Rule 7 applies a different definition for this term specific to Taxation Hearings.
- N. "Setting Conference" means a conference held for the purposes of setting a hearing date and time.
- O. "State Licensing Authority" means the Executive Director of the Department. The Executive Director may delegate this authority to the Deputy Executive Director.
- P. "Taxation Hearing" means a hearing held by the Hearings Division involving taxation issues.

Rule 3. Hearing Process

Basis and Purpose. The statutory authority for this Rule includes, but is not limited to, §§ 24-2-105 and 24-35-103, C.R.S. The purpose of this Rule is to define the hearing process and procedures applicable in administrative cases before the Colorado Department of Revenue's Hearings Division.

3.1. Hearing Officer Authority

- A. Hearings will be held before a Hearing Officer designated by the Executive Director of the Department. In addition to any other powers authorized by statute, including § 24-4-105(4), C.R.S., the Hearing Officer shall have the authority and responsibility to:

1. Conduct a full, fair, and impartial hearing;
2. Take action to avoid unnecessary delay in the disposition of the proceeding;
3. Maintain order and professional decorum;
4. Administer oaths for the purpose of obtaining testimony;
5. Rule on matters of evidence and law;
6. Issue orders relating to hearing and prehearing matters, including discovery orders and orders requiring prehearing conferences for simplification of issues;
7. Conduct conferences with the parties and issue orders relating to prehearing, hearing, and post-hearing matters;
8. Limit irrelevant, immaterial, and unduly repetitious testimony, and reasonably limit time for presentations;
9. Rule on motions of parties or the Hearing Officer's own motion;
10. Issue initial decisions/recommendations or final decisions and orders as required or authorized by statute;
11. Order the production of any documents which are required by any statute or rule;
12. Issue or deny subpoenas; and
13. In the event of noncompliance with these Rules or any order, the Hearing Officer may impose appropriate sanctions, including, but not limited to, striking proposed witnesses and exhibits.

3.2. Entry of Appearance and Withdrawal of Counsel

- A. Entries of Appearance and Withdrawals of Counsel shall be in conformance with C.R.C.P. 121 § 1-1. Any out-of-state attorney shall comply with C.R.C.P. 205.1.
 1. Incorporation by Reference. C.R.C.P. 121 § 1-1 and C.R.C.P. 205.1 incorporated by reference in Rule 3.2(A) include only the versions that were in effect as of July 2023, and do not include any later amendments or editions. The Colorado Rules of Civil Procedure are available for public inspection during regular business hours at the Office of the Hearings Division of the Department of Revenue, 1881 Pierce Street, Lakewood, CO 80214. The Colorado Rules of Civil Procedure are also available for a reasonable charge from the Hearings Division at this same address, and free of charge from the Hearings Division's website.
- B. An individual who is a party may be represented by an attorney or may represent themselves. In any Regulatory Hearing where the amount at issue exceeds \$15,000.00, a closely held entity must be represented by an attorney according to § 13-1-127(2), C.R.S., unless the exception described in § 13-1-127, C.R.S., applies. If the Department or one of its constituent divisions appears at the hearing, the Department or constituent division will be represented by an Assistant Attorney General as required by § 24-35-112, C.R.S.

3.3. Service and Filing with the Hearings Division

- A. Unless otherwise provided by statute, service of pleadings or other papers on a party or attorney representing a party should be served electronically and on the Hearings Division by emailing dor_regulatoryhearings@state.co.us. Alternatively, service may also be made by hand delivery or by first class mail to the Hearings Division address and the party's last known address. When a party is represented by an attorney, service shall be made on the attorney.
1. All pleadings or other papers are considered filed with the Hearings Division on the date of receipt by the Hearings Division. The date of receipt is reflected by the transmission date and time indicated in an electronic communication containing a filing, if the document is filed electronically, or by date and time of physical receipt by the Hearings Division, if the document is delivered via another method.
 2. Parties may use an electronic signature where applicable.
- B. After the Hearings Division has assigned a case number to a proceeding, all pleadings, documents, or other papers filed with the Hearings Division shall contain that case number.
- C. All pleadings, exhibits, or other papers meant to be part of the administrative record in any Regulatory Hearing must be sent to the following recipients: (1) the Hearings Division by email to dor_regulatoryhearings@state.co.us; (2) the Hearing Officer assigned to the proceeding; and (3) any party that has filed an appearance in the Regulatory Hearing.
- D. All pleadings or other papers sent to the Hearings Division must contain a certificate of service attesting to service on all other parties to the Regulatory Hearing, and in the case of service by hand delivery or by mail, the certificate of service must provide the address where pleadings or other papers were served. The certificate must be signed, indicate which materials were served, and reflect how service was effectuated on any other parties.
- E. All hearing exhibits must be submitted to the Hearing Officer in an electronic format unless a party is unable to, in which case, they can be served by hand delivery or first class mail.
1. The Hearing Officer may, in their discretion, require paper copies of the exhibits in addition to electronic copies. If paper copies of hearing exhibits are required, the Hearing Officer assigned to the proceeding will provide mailing and/or delivery instructions.
 2. The Hearing Officer has the discretion to modify the means and methods of submission for hearing exhibits. Any modification to the means and methods for the submission of hearing exhibits shall be contained in the Hearing Officer's prehearing order.

3.4. Prehearing Procedures

- A. If a Setting Conference is held, the Hearing Officer will issue a notice of hearing that will provide notice of the date, place, and time of the hearing and any information necessary to access a virtual hearing by video or telephone. The Hearing Officer may also issue a prehearing order that will establish all prehearing deadlines and other instructions for the submission and exchange of prehearing statements, hearing exhibits, requests for subpoenas, and filing and responding to motions.
- B. Parties to a Regulatory Hearing may be required to file prehearing statements when ordered by the Hearing Officer, either in a prehearing or other order.

- C. Prehearing Conferences may be held at the request of any party or upon motion or order of the Hearing Officer. Written notice of the Prehearing Conference shall be sent to all parties to a proceeding. The purpose of such a conference is to define the issues and the scope of the proceeding, to secure statements of the positions of the parties and amendments to the pleadings, to schedule the exchange of exhibits before the date set for hearing, and to arrive at any agreements that will aid in the conduct and disposition of the proceeding, including settlement between the parties prior to hearing.

3.5. Subpoenas

- A. Subpoenas shall be requested from and issued by the Hearings Division and must comply with the requirements of C.R.C.P. 45. Any motion to quash a subpoena must comply and will be determined pursuant to C.R.C.P. 45.
 - 1. Incorporation by Reference. C.R.C.P. 45 incorporated by reference in Rule 3.5(A) includes only the version that was in effect as of July 2023, and does not include any later amendments or editions. The Colorado Rule of Civil Procedure is available for public inspection during regular business hours at the Office of the Hearings Division at the Department of Revenue, 1881 Pierce Street, Lakewood, CO 80214. The Colorado Rule of Civil Procedure is also available for a reasonable charge from the Hearings Division at this same address, and free of charge from the Hearings Division's website.

3.6. Place of Hearing

- A. ~~All proceedings within the scope of these Rules will be conducted by the Hearings Division. Hearings will be held virtually, unless otherwise ordered by the Hearing Officer for good cause. Any motion for an in-person hearing must be made within fourteen days after the first notice of hearing is served on the parties.~~

3.7.3.6. Rules of Civil Procedure

- A. To the extent practicable, and unless inconsistent with these Rules, the Colorado Rules of Civil Procedure apply to matters before the Hearings Division. Unless the context otherwise requires, whenever the words "court" or "judge" appears in a relevant Colorado Rule of Civil Procedure, those words shall be construed to mean the Hearings Division and Hearing Officer, respectively.
- B. C.R.C.P. 16 and 26-37 do not apply to Regulatory Hearings unless otherwise ordered by the assigned Hearing Officer.
- C. Incorporation by Reference. The Colorado Rules of Civil Procedure incorporated by reference in Rules 3.7(A) and 3.7(B) include only the versions that were in effect as of July 2023, and do not include any later amendments. The Colorado Rules of Civil Procedure are available for public inspection during regular business hours at the Office of the Hearings Division at the Department of Revenue, 1881 Pierce Street, Lakewood, CO 80214. The Colorado Rules of Civil Procedure are also available for a reasonable charge from the Hearings Division at this same address, and free of charge from the Hearings Division's website.

3.8.3.7. Submission of Stipulations/Agreements as to Facts and/or Law

- A. Parties are encouraged to save time at hearing by stipulating, preferably in advance, to facts or law when they are not in dispute. Such agreements shall be reduced to writing and filed with the Hearings Division as soon as practicable.
- B. When no factual disputes exist, the Hearing Officer may proceed to oral argument or argument by brief from the parties on the legal issues in dispute without an evidentiary hearing.

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3.9.3.8. Settlements

- A. Parties shall promptly notify the Hearing Officer of all settlements, stipulations, agency orders, or any other action eliminating the need for a hearing. Following final agency action by the State Licensing Authority, the division of the Department that initiated the Regulatory Hearing and/or referred it to the Hearings Division for hearing shall file a notice of final agency action alerting the Hearings Division that the case can be closed.

3.10.—Recording/Court Reporters

- ~~A. The Hearing Officer shall cause all hearings to be electronically recorded. The electronic recording made by the Hearings Division shall be a part of the official record of the hearing.~~
- ~~B. The Hearings Division does not supply court reporters or transcripts of recordings. If any party wishes to have all or a portion of a recording transcribed by a court reporter, that party may make private arrangements to do so at that party's own expense.~~
- ~~C. A request to the Hearings Division for a recording must be in writing and must contain the case number and the date and time of the hearing or conference.~~

3.11.3.9. Ex Parte Communications

- A. A party or legal counsel for a party shall not initiate any communication with a Hearing Officer pertaining to a matter before the Hearings Division unless all other parties participate in the communication or the prior consent of all other parties or their counsel has been obtained. Copies of all pleadings or correspondence filed with the Hearings Division or directed to a Hearing Officer by any party shall be served upon all other parties or their counsel.

3.12.3.10. Computation of Time

- A. In computing any period of time prescribed or allowed by these Rules, the provision of C.R.C.P. 6 shall apply. The time periods of these Rules may be modified at the discretion of the Hearing Officer.
- B. Incorporation by Reference. C.R.C.P. 6 incorporated by reference in Rule 3.12(A) includes only the version that was in effect as of July 2023, and does not include later amendments or editions. The Colorado Rule of Civil Procedure is available for public inspection during regular business hours at the Office of the Hearings Division at the Department of Revenue, 1881 Pierce Street, Lakewood, CO 80214. The Colorado Rule of Civil Procedure is also available for a reasonable charge from the Hearings Division at this same address, and free of charge from the Hearings Division's website.

3.13.3.11. Default Procedures

- A. Except in Tax Matters, any default procedures requested by any party shall be governed by the Administrative Procedures Act pursuant to § 24-4-105(2)(b), C.R.S.

3.14.3.12. Hearing Officer Decisions

- A. Following any Regulatory Hearing, the Hearing Officer shall issue an initial decision or final determination. The Hearing Officer shall determine whether the proponent of the Regulatory Hearing has proven its case by a preponderance of the evidence, and make written findings of evidentiary fact, conclusions of law, and a recommendation as to the appropriate sanction, if applicable. The written findings shall constitute the initial decision subject to review by the State Licensing Authority or the referring board or commission. The initial decision of the Hearing Officer shall be served to all parties to the proceeding.
- B. Hearing Officer decisions issued in Tobacco and Taxation cases are final agency actions.

3.15.3.13. Dismissal for Lack of Jurisdiction

- A. Whenever it appears that a matter pending before the Hearings Division involves questions over which the Hearings Division does not have jurisdiction, the matter may be dismissed on motion of any party to the action or on the Hearing Officer's own motion.

3.16.3.14. Testimony Under Oath

- A. All testimony in Hearings Division proceedings shall be given under oath, administered by the Hearing Officer presiding over the hearing.

3.17.3.15. Hearing Procedure

- A. Objections shall be made pursuant to the Colorado Rules of Evidence.
 - 1. Incorporation by Reference. The Colorado Rules of Evidence incorporated by reference in Rule 3.17(A) include only the version that was in effect as of July 2023, and do not include any later amendments or editions. The Colorado Rules of Evidence are available for public inspection during regular business hours at the Office of the Hearings Division at the Department of Revenue, 1881 Pierce Street, Lakewood, CO 80214. The Colorado Rules of Evidence are also available for a reasonable charge from the Hearings Division at this same address, and free of charge from the Hearing Division's website.
- B. Motions and objections are permitted throughout Regulatory Hearings.
- C. Hearings are recorded. Any party may request a copy of the recording. The official case file will be maintained in electronic format by the Department.

3.18.—Suspension of Rules

- ~~A. The Hearing Officer may suspend any of these Rules upon motion of a party or on the Hearing Officer's own motion when the interests of justice or fairness so require.~~

Rule 4. Determination of Motions

Basis and Purpose. The statutory authority for this Rule includes, but is not limited to, §§ 24-2-105 and 24-35-103, C.R.S. The purpose of this Rule is to define the determination of motions procedures applicable in administrative cases before the Colorado Department of Revenue's Hearings Division.

- A. Any party filing a motion shall state the relief sought and the grounds on which relief should be granted and any supporting legal authority. Prior to filing any motion, the filing party must make a good faith attempt to confer with any other parties concerning the substance of the motion. The filing party must include a description of the conferral or attempt to confer in its motion. Unless otherwise ordered by the Hearing Officer:
1. Motions must be filed at least 21 days prior to hearing with the exception of Motions to Seal, which must be filed 14 days prior to the hearing. Any motion other than a Motion to Seal filed less than 21 days prior to a hearing will be considered untimely unless the Hearing Officer has given prior approval to the filing of the motion.
 2. Responses to Motions may be filed by the non-moving party within 10 days after the date of service of the motion.
 3. Replies to Responses are discouraged. Any party may file a reply within 7 days after the date of service of the response.
 4. Proposed Orders must accompany all motions filed with the Hearings Division.
 5. The Hearing Officer may act upon a motion at any time by issuing an order without waiting for a response or reply to the motion. Orders are not appealable unless otherwise provided by law.
 6. Motions to Seal may be filed with a party's prehearing statement 14 days prior to hearing unless otherwise ordered by the Hearing Officer.
 7. The Hearing Officer has discretion to set or modify any of the deadlines set forth above on a motion of a party.
- B. A party seeking consolidation of two or more cases shall file a motion to consolidate in each case sought to be consolidated. If consolidation is granted, and unless otherwise ordered by the Hearing Officer, all subsequent filings shall be made in the case first filed and all previous filings related to the consolidated cases shall be placed together under that case number. Consolidation may be ordered on a Hearing Officer's own motion.
- C. Continuances of Regulatory Hearings may be granted for good cause. Motions for continuance must be filed in a timely manner at least 48 hours prior to the scheduled hearing. Hearing Officers have discretion to grant untimely motions for good cause.

Rule 5. Evidence

Basis and Purpose. The statutory authority for this Rule includes, but is not limited to, §§ 24-2-105 and 24-35-103, C.R.S. The purpose of this Rule is to define the evidence procedures applicable in administrative cases before the Colorado Department of Revenue's Hearings Division.

- A. The Applicant/Licensee/Respondent or any other witness may testify and present evidence on pertinent issues.
- B. The Hearing Officer has broad authority, including but not limited to:

1. The Hearing Officer may exclude irrelevant, repetitious, immaterial, or privileged information or evidence.
 2. The Hearing Officer may consider hearsay evidence.
 3. The Hearing Officer may question the Applicant/Licensee/Respondent and/or other witnesses testifying under oath.
 4. The Hearing Officer may consider and receive documentary evidence, including photocopies or excerpts.
 5. The Hearing Officer may continue a hearing in order to subpoena any witness or document relevant to the proceeding.
- C. All exhibits entered into evidence shall become a part of the official record of the hearing and, where practicable, will be maintained in electronic format by the Department. The Hearing Officer may require the Applicant/Licensee/Respondent to maintain the original of any exhibit for use on appellate review.
- D. The official record of the hearing is kept as an electronic file and it will be maintained pursuant to the Department's records retention policy.
- E. To the extent practicable, the Colorado Rules of Evidence apply in all hearings conducted by the Hearings Division. Unless the context requires otherwise, whenever the word "court," "judge," or "jury" appears in the Colorado Rules of Evidence such word shall be construed to mean a Hearing Officer. A Hearing Officer has the discretion to admit evidence not admissible under such rules, as permitted by § 24-4-105(7), C.R.S., or other law. Hearsay evidence is admissible in these hearings unless otherwise ordered by the Hearing Officer.
1. Incorporation by Reference. The Colorado Rules of Evidence incorporated by reference in Rule 5(E) includes only the version that was in effect as of July 2023, and do not include any later amendments or editions. The Colorado Rules of Evidence are available for public inspection during regular business hours at the Office of the Hearings Division at the Department of Revenue, 1881 Pierce Street, Lakewood, CO 80214. The Colorado Rules of Evidence are also available for a reasonable charge from the Hearings Division at this same address, and free of charge from the Hearings Division's website.
- F. Audio, video, and other electronic evidentiary displays are permitted unless the Hearing Officer rules otherwise. It is the sole responsibility of the proponent of any electronic evidence to present the evidence in a format that can be played without the use of State-issued computers.

Rule 6. Conduct and Decorum

Basis and Purpose. The statutory authority for this Rule includes, but is not limited to, §§ 24-2-105 and 24-35-103, C.R.S. The purpose of this Rule is to define the conduct and decorum procedures applicable in administrative cases before the Colorado Department of Revenue's Hearings Division.

- A. Unless otherwise precluded by law, all proceedings before the Hearings Division are open to the public, except for Taxation Hearings. Participants from the public must identify themselves for the record. Employees of the Department are permitted to attend any Regulatory Hearing or Taxation Hearing.

- B. Parties, representatives, and other attendees shall conduct themselves in a professional manner, shall show courtesy and respect for one another and for the Hearing Officer, and shall follow any additional guidelines of decorum prescribed by the Hearing Officer in the proceeding. Attorneys shall always adhere to the Colorado Rules of Professional Conduct.
- C. To ensure proper conduct and decorum and the orderly progress of the hearing, the Hearing Officer may take appropriate action, including but not limited to:
 - 1. Excluding any person(s) from the hearing; or
 - 2. Recessing the hearing.
- D. The Hearing Officer may restrict hearing attendance due to sequestration of witness(es), the physical limitations of the hearing facility, technological limitations, or other justified reasons.
- E. Media access may be limited as provided by the Colorado Code of Judicial Conduct and the Colorado Rules of Civil Procedure.
 - 1. Incorporation by Reference. The Colorado Code of Judicial Conduct and the Colorado Rules of Civil Procedure incorporated by reference in Rule 6(E) include only the versions that were in effect as of July 2023, and do not include any later amendments or editions. The Colorado Code of Judicial Conduct and the Colorado Rules of Civil Procedure are available for public inspection during regular business hours at the Office of the Hearings Division at the Department of Revenue, 1881 Pierce Street, Lakewood, CO 80214. The Colorado Code of Judicial Conduct and the Colorado Rules of Civil Procedure are also available for a reasonable charge from the Hearings Division at this same address, and free of charge from the Hearings Division's website.
- F. All testimony in Hearings Division proceedings shall be given under oath, administered by the Hearing Officer presiding over the hearing.

Rule 7. Special Rules Pertaining to Taxation Hearings

Basis and Purpose. The statutory authority for this Rule includes, but is not limited to, §§ 29-2-106.1, 39-21-103, 39-21-104, 39-21-108, and 39-21-112(1), C.R.S. The purpose of this Rule is to describe the unique procedure, structure, and requirements in Taxation cases before the Hearings Division.

- A. "Final Determination" means a written judgment or ruling issued by the Executive Director pursuant to § 39-21-103(8)(a), C.R.S.
- B. "Party" means any Petitioner or Respondent.
- C. "Petitioner" means a taxpayer who is seeking a Final Determination from the Hearings Division.
- D. "Respondent" means either the Department when a hearing concerns a notice of deficiency from the Department under § 39-21-103, C.R.S., or a refund request under § 39-21-108, C.R.S., or the local government when hearing an appeal of a decision by a local government under § 29-2-106.1, C.R.S.
- E. Rules 1 through 6 apply to Taxation Hearings unless otherwise stated in or preempted by this Rule 7. Rule 7 applies only to Taxation Hearings.
- F. If a tax conferee is unable to resolve the protest or refund request, the taxation case will be forwarded to the Hearings Division and a Taxation Hearing will be scheduled. The content required to transfer a matter to the Hearings Division must include the following:

1. The Petitioner's name, mailing address, telephone number, and email address, if known;
 2. The name and email address of any representatives of the Petitioner and any representatives of the Respondent, if known;
 3. The type of tax at issue; and
 4. A statement of the Respondent's decision that has been protested.
- G. Prior to the hearing, the taxpayer and the Respondent will be asked to submit administrative prehearing data certificates.
1. The data certificates are due by the date specified in a prehearing order Issued by the Hearing Officer. Extensions may be granted at the discretion of the Hearing Officer.
 2. The data certificates may require any or all of the following under appropriate headings:
 - a. A listing of each legal issue to be determined by the Hearing Officer;
 - b. For each legal issue, the amount of tax, penalty, and interest in controversy and the tax periods involved, followed by total amounts for all issues;
 - c. A statement of facts which references exhibits as appropriate;
 - d. For each legal issue, citation to the relevant statutes, regulations, and caselaw, and copies of any such cited legal authorities as attachments;
 - e. A list of all witnesses, with brief summaries of the testimony to be presented;
 - f. A position statement. The position statement must be double-spaced, and it must not exceed ten (10) pages. For each issue to be determined, the position statement must state the issue, position of the party, any legal argument regarding that issue, and analysis that applies the relevant facts and law. The Hearing Officer may extend the length of the position statement; and
 - g. Copies of all exhibits and attachments. The certificate must include all notices, demands, protest letters, and explanations of adjustments in the exhibits.
- H. These Taxation Hearings are not open to the public.
- I. Based upon the evidence and arguments presented at hearing, the briefs and written materials submitted in lieu of a hearing, or as the case is otherwise presented to the Executive Director (or an appointed representative of the Executive Director), shall issue a Final Determination within 60 days unless otherwise provided by statute.
- J. The timeframe for a Final Determination may be extended in 60-day increments by the Executive Director. The Executive Director can uphold the position of the Department, modify the tax, penalties, and interest disputed at the hearing, or approve a refund.
- K. The taxpayer has 30 days after the mailing of the Final Determination by the Executive Director to appeal the determination to the Colorado State District Court for judicial review.

Editor's Notes

History

Entire rule eff. 05/30/2009.

Entire rule eff. 11/30/2023.