



How to Pay Your Audit Assessment and Notice of Taxpayer Rights

Every taxpayer has the right to request a review of his or her audit results. Please carefully read this information and the time limits outlined. If you do not send payment or exercise your right to a formal or informal review, collection action will begin as soon as the assessment becomes final. You may contact Case Processing at 850-922-5923 about your rights or the status of your audit.

Paying Your Audit Assessment

We encourage you to pay the balance due (including additional daily interest on the unpaid tax balance) that appears on the *Notice of Proposed Assessment (NOPA)* or latest Department of Revenue notice that you received. Interest will continue to accrue on the unpaid tax balance until it is paid. You can pay all or a portion of the amount due at any time without risking your protest rights. If you protest the assessment, Department policy requires that you pay the agreed upon portion of tax, interest, and penalty at the time you file your protest. If you are unable to pay the liability in full within the time frame stated on your notice, please contact Case Processing at 850-922-5923.

Effective September 1, 2009, the Department will collect a fee on any debt that is more than 90 days old. The fee is equal to 10 percent of the balance due or \$10, whichever is greater. The fee is intended to recover the costs of collecting the debt. If you fail to timely pay the amount due after your appeal rights expire or the assessment becomes final, you will owe this fee.

Your Payment

To help ensure proper processing of your payment:

- Make your check or money order payable to the Florida Department of Revenue.
- Write the audit number and tax type on your check or money order.
- Include any additional daily interest charges.
- Attach your check or money order to the coupon provided with the most recent notice that you received. If you did not receive or cannot locate a coupon, attach your payment to a copy of the most recent notice that you received.
- Mail your payment (DO NOT SEND CASH) in the enclosed envelope or send it to:
Department of Revenue, P.O. Box 5139, Tallahassee FL 32314-5139.

Do not include your audit payment with other Department of Revenue payments. Please use the self-addressed envelope provided.

If you fail to identify your payment as an audit payment, the Department may not be able to properly apply the funds to your account. As a result, we may issue additional penalty and interest billings or transfer your audit account to collections.

What if I do not agree with the audit results?

If you do not agree with the audit assessment, you can:

- File a written informal protest with the Department of Revenue; or
- File a written formal protest by petitioning for review by the Division of Administrative Hearings or file an action in circuit court.

Informal Protests

What is an informal protest?

An informal protest is an objection to an assessment that is filed with the Department of Revenue. For informal protests, a taxpayer may serve as his or her own representative. At the taxpayer's request, a meeting or conference may be held in Tallahassee or by telephone.

What is the deadline for filing an informal protest?

The deadline is 60 days from the date the Department issues the *Notice of Proposed Assessment (NOPA)*. If you need to ask for an extension, we must receive your request within 60 days from the date the Department issues the NOPA. You can mail your request for extension to Compliance Support, P.O. Box 5139, Tallahassee FL 32314-5139. Or, you can fax it to Compliance Support at 850-488-0325.

What information must appear in a written informal protest?

- The taxpayer's name, address, and federal employer identification number (where appropriate).
- The type and dollar amount(s) of tax, interest, or penalty challenged.
- The period covered under the assessment and the amount of tax protested.
- A schedule of the protested adjustments.
- A statement of factual and legal grounds for the objection, and any contested factual issue.
- A description or copy of the assessment.
- A statement of whether a personal conference with a Department specialist is needed.

Where should I send the informal protest request?

Mail the original protest to Compliance Support, P.O. Box 5139, Tallahassee FL 32314-5139. Or, you can fax it to Compliance Support at 850-922-6168.

What happens after the Department receives my protest?

Compliance Support will review your protest for possible resolution. If resolution is not possible, your protest will be referred to our Technical Assistance and Dispute Resolution staff for an informal review. We will contact you when the informal review begins. When the informal review is complete, you will receive a *Notice of Decision (NOD)*. The assessment becomes final when the Department issues the NOD.

What if I still disagree?

The NOD will explain any rights available. You may file a *Petition for Reconsideration* with the Department of Revenue, file a petition for review by the Division of Administrative Hearings (DOAH), or file an action in circuit court or the district court of appeal. Please note that interest continues to accrue during the protest period.

For more information, see Rule 12-6.003, Florida Administrative Code.

Formal Protests

What is a formal protest?

A formal protest is an objection to an assessment that is filed and decided by the Division of Administrative Hearings (DOAH) or by a circuit court. When filing a formal protest, you must pay any taxes, penalties, and accrued interest that you are not contesting. You may file either a DOAH protest or an action in circuit court.

I. FORMAL PROTEST UNDER THE ADMINISTRATIVE PROCEDURES ACT, CHAPTER 120, FLORIDA STATUTES

What is the deadline for filing a petition for a formal hearing?

The deadline is 120 days from the date the Department issues the *Notice of Proposed Assessment* unless you file an informal protest. If you file an informal protest, and the Department issues a Notice of Decision (NOD), your petition for a formal hearing must be received by the Department (not postmarked) within 60 days from the NOD date. There is no extension of time to file a petition for a formal hearing.

What information should be contained in a petition for formal hearing?

Each petition should be printed, typewritten, or otherwise duplicated in legible form on standard letter-size white paper. Unless printed, the impression should be on one side of the paper and lines should be double-spaced and indented. All petitions should contain:

- The name and address of each agency affected and each agency's file or identification number, if known.
- The name and address of the petitioner or petitioners, and an explanation of how their substantial interests will be affected by the agency determination.
- A statement of when and how the petitioner received notice of the agency decision or intent to make a decision.
- A statement of all disputed issues of material fact. If there are none, the petitioner must so indicate.
- A concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle the petitioner to relief.
- A statement of the action or relief that the petitioner expects as a result of the hearing.
- Other information that the petitioner contends is material.

Where should I send a petition for a formal Division of Administration hearing?

Send your petition to Office of the General Counsel, Department of Revenue, P.O. Box 6668, Tallahassee FL 32314-6668. Or, you can fax it to the Office of the General Counsel at 850-488-7112 and send the original by mail. The fax date will be considered the date filed.

What happens after my formal hearing petition is received?

After receiving the petition, the Department of Revenue will either accept or deny it. If accepted, the Department will conduct the hearing through the agency head, his designee, or assigned person authorized by section 120.57(1)(a), Florida Statutes, or other authority; or request that a hearing officer from the Division of Administrative Hearings (DOAH) be assigned to conduct the hearing and issue a recommended order. A petition may be denied if the petitioner does not adequately state the material facts, or if the petition is untimely. The Department will promptly give written notice to the parties of the action taken, and will state its reasons for that action. If the Department chooses to ask that a DOAH hearing officer be assigned to conduct the hearing, it will forward the petition (and all materials filed with the agency) to DOAH. Parties will be notified either personally or by mail of any final order issued by the Department.

What if I still disagree?

If you still disagree, your appeal must be filed with the appropriate Florida district court of appeals.

For more information, see section 120.80, Florida Statutes.

II. FORMAL PROTEST IN CIRCUIT COURT

What is the deadline for filing an action in circuit court?

The deadline is 120 days from the date the Department issues the *Notice of Proposed Assessment*, unless you file an informal protest. When the Department issues a *Notice of Decision (NOD)* on your informal protest, your formal protest must be filed with the clerk of the court (not postmarked) within 60 days from the NOD date. There is no extension of time to file an action in circuit court.

What is required when filing an action in circuit court?

You must pay to the Department any uncontested taxes, penalties, and accrued interest. You must either pay into the registry of the court or post a cash or surety bond for any contested portion of the assessment, including penalties and interest, unless this requirement is waived in writing by the executive director of the Department.

Where do I file an action in circuit court?

Taxpayers who are Florida residents should file an action either in the Second Judicial Circuit Court or in the circuit court in the county where the taxpayer resides or maintains the principal place of business. Taxpayers who are not Florida residents or who do not maintain a commercial domicile in this state should file their actions in the Second Judicial Circuit Court.

What if I still disagree?

After receiving a decision from the circuit court, you can file an appeal with the appropriate Florida district court of appeal.

For more information, see s. 72.011, F.S.

Actions in District Court of Appeals

You may contest a *Notice of Decision* or a *Notice of Reconsideration* in the appropriate district court of appeal by filing a *Notice of Appeal* meeting the requirements of Rule 9.110, Florida Rules of Appellate Procedure. File the appeal with the Office of the General Counsel, Department of Revenue, P.O. Box 6668, Tallahassee FL 32314-6668, and with the clerk of the appropriate district court of appeal, along with the applicable filing fee. *The Notice of Appeal* must be filed within 30 days of the *Notice of Decision*.

For more information, see s. 120.68, F.S.

What is the Role of the Taxpayer Rights Advocate?

The Taxpayer Rights Advocate guides the review and resolution of taxpayer problems and complaints not solved through normal channels. (It is not a substitute for informal protest procedures.) If you believe that you have not been treated fairly by Department employees, you should try to resolve your problems through normal channels. If you have taken these steps, but still believe the Department has not addressed your concerns, you may call the Taxpayer Rights Advocate at 850-488-2321. Or, send your concerns in writing to: Taxpayer Rights Advocate, Department of Revenue, P.O. Box 5906, Tallahassee FL 32314-5906.