

Notice of Taxpayer Rights

Note: Whether you agree or disagree with the department's position, interest (which is compounded daily) and/or penalty will continue to accrue on any balance due unless you make full payment within 10 days from the date of the enclosed *Response to Taxpayer Inquiry* or *Notice of Adjustment*.

If you still disagree with the department's position and wish to have the case reviewed further, you must do one of the following:

1. File either a Request for Conciliation Conference with the Bureau of Conciliation and Mediation Services or a Petition for a Division of Tax Appeals Hearing **within 90 days (30 days if the total amount due is imposed under Article 21-A, Tax on Fuel Use) from the date of the enclosed notice.** Payment is not required prior to seeking further review, but amounts paid that are later canceled or reduced will be refunded with interest, as provided by law, from the date of payment. (If you have any other outstanding liabilities, however, the refund may be applied to the amount(s) due.) Information regarding the Conciliation Conference process and Division of Tax Appeals Hearing proceedings is provided below.
2. Pay the total amount due and file a formal claim for refund or credit. Call the phone number at the bottom of this page to obtain a formal refund claim form. (**Note:** When calling, ask about the time period allowed for requesting a refund since the time limit varies from one type of tax to another.) If you do not agree with the department's determination on your claim, you will be advised of your right to further review.

At a conciliation conference or Division of Tax Appeals hearing, you may either represent yourself or have an authorized representative appear on your behalf. To appear on your behalf, an authorized representative must have a *Power of Attorney* executed by you. Copies of the Tax Department's *Power of Attorney* form, POA-1, may be obtained by calling the phone number at the bottom of this page or by internet at www.nystax.gov. If you have access to a fax machine and a Touch-Tone phone, you may also order this form through the department's Fax-on-demand forms ordering system. The system is available 24 hours a day, seven days a week. To access the system, dial 1 800 748-3676. To order form POA-1 and instructions, enter fax code 17001. (Note the restrictions on representation by former Tax Department employees set forth in the POA-1 instructions.)

Conciliation Conference

A conciliation conference is an inexpensive way to resolve disagreements without the need for the more expensive, complicated and time-consuming formal hearing. The conference is conducted informally by a conciliation conferee who will review all of the submitted evidence to reach a fair result. After the conference, the conferee will send you a proposed resolution in the form of a Consent. If you indicate your acceptance by signing and returning the Consent within 15 days, the disagreement will be concluded. Otherwise, the conferee will issue a conciliation order. This order is binding on the department and will be binding on you unless you file a petition for a hearing with the Division of Tax Appeals within 90 days after the conciliation order is issued.

To request a conciliation conference, complete the enclosed *Request for Conciliation Conference* (Form DTF-996.30) and return it in the envelope provided.

Division of Tax Appeals Hearing

A proceeding in the Division of Tax Appeals is commenced by filing a petition. The petition must be in writing and must specifically indicate what department actions are being protested. The petition must be filed within 90 days (30 days if the total amount due is imposed under Article 21-A, Tax on Fuel Use) from the date of the enclosed *Response to Taxpayer Inquiry* or *Notice of Adjustment*.

The hearing is an adversarial proceeding, before an impartial administrative law judge, that is stenographically reported. After the hearing and an opportunity to file briefs, the administrative law judge will issue a determination within six months. This will finally decide the matter(s) in dispute unless either you or the department requests review (known as an exception) by the Tax Appeals Tribunal. If an exception is taken, the transcript of the hearing, all evidence and any briefs or written arguments submitted to the

judge will be reviewed by the Tribunal, which will issue a decision affirming, reversing or modifying the administrative law judge's determination.

If you do not agree with the Tax Appeals Tribunal's decision, you may seek court review. An application for court review must be filed within four months of the Tribunal decision. At the time you file the application for court review, you may be required to pay the tax, interest and penalty due, or post a bond.

Small Claims option: When petitioning for a hearing, you may elect to have your hearing held in the Small Claims Unit if the disputed amount is within certain monetary limits. The Division of Tax Appeals will assist you in determining whether you are eligible for a Small Claims hearing and what the differences are between the formal and Small Claims hearing procedures. You will be sent a copy of the Rules of Practice and Procedure with the petition forms that will explain the Small Claims process to you. Please note that the presiding officer's determination in a Small Claims hearing is conclusive and is not subject to further review.

You may obtain petition forms (TA-10) by contacting the Division of Tax Appeals by telephone ((518) 266-3000), facsimile transmission ((518) 272-5178), by internet at www.nysdta.org, or by writing to:

Supervising Administrative Law Judge
State of New York
Division of Tax Appeals
Riverfront Professional Tower
500 Federal Street-4th Floor
Troy NY 12180-2894

You should know that a request for forms does not constitute the filing of a petition, nor does it extend the time within which a petition must be filed.

To obtain forms, call toll free 1 800 462-8100. From areas outside the U.S. and outside Canada, call (518) 485-6800.

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Private delivery services

If you choose, you may use a private delivery service, instead of the U.S. Postal Service, to send your response. However, if, at a later date, you need to establish the date you sent your response, you cannot use the date recorded by a private delivery service **unless** you used a delivery service that has been designated by the U.S. Secretary of the Treasury or the Commissioner of Taxation and Finance. (Currently designated delivery services are listed in Publication 55, *Designated Private Delivery Services*. See *Need help?* section for information on ordering forms and publications.) If you have used a designated private delivery service and need to establish the date of delivery, contact that private delivery service for instructions on how to obtain written proof of the date your response was given to the delivery service for delivery. If you use **any** private delivery service, whether it is a designated service or not, address your return to:

JP MORGAN CHASE
LOCKBOX
4 METROTECH CENTER – 8TH FLOOR WEST
BROOKLYN NY 11245